

**R.S.A.No.4602 of 2018 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**

**Sr. No.103**

**Case No. : R.S.A.No.4602 of 2018 (O&M)**

**Date of Decision : July 05, 2023**

Lovish and another .... Appellants  
vs.

Niranjan Dass (now deceased)  
through his LRs ..... Respondents

**CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.**

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Present : Mr. J. S. Grewal, Advocate  
for the appellants.

None for the respondents.

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**GURBIR SINGH, J. :**

1. This is Regular Second Appeal against the concurrent findings passed by both the Courts below.

2. Learned counsel for the appellants has submitted that the property in question is ancestral property, purchased from the money earned by selling the ancestral property, which was coming from the forefathers. The appellants have share in the property by birth and the respondents deliberately transferred the property in question. Both the courts below fell in error for not considering the documents produced by the appellants in evidence. Adverse inference has been wrongly drawn against the appellants.

3. Heard.

4. The suit was filed by the appellants as the owners in possession

as the coparceners of the 1/6th share of immovable property, as mentioned in the heading of the plaint. The learned Trial Court, vide judgment dated 05.11.2015, gave a definite finding that it has been clearly established by defendant no.1 – Niranjan Dass that he has purchased the property in dispute by way of sale deed from its erstwhile owner. The nature of the property in the hands of Niranjan Dass is clearly self-acquired property and not being the ancestral property, as alleged by the plaintiffs. The suit was dismissed.

5. Feeling aggrieved, the plaintiffs filed appeal against the aforesaid judgment dated 05.11.2015. The learned Additional District Judge-I, Fazilka, vide judgment dated 18.07.2017, dismissed the appeal, upholding the judgment passed by the learned Trial Court. It has been held therein that the plaintiffs have failed to prove as to how the suit property is the Joint Hindu Family, ancestral or coparcenary property and no old revenue record was brought on the file showing the nature of the suit property to be ancestral coparcenary property. The burden is always on the plaintiff to prove the nature of the property. In the case in hand, the plaintiffs before the Courts below, have failed to prove that the suit property is ancestral property or was purchased with the funds arranged by selling the ancestral property. The learned counsel for the appellants have failed to point out which evidence was not taken into consideration. It cannot be said that findings recorded by learned Courts below are perverse.

6. Accordingly, no question of law, much less substantial question of law, arises for consideration in the present appeal. So, there is no ground

to interfere in the judgments passed by both the Courts below. The appeal being devoid of merits, is hereby dismissed in limine.

7. Pending applications, if any, shall stand disposed of along with this judgment.

July 05, 2023  
monika

(GURBIR SINGH)  
JUDGE

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |