

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 977 of 2020 (O&M)****Date of Decision: 13.03.2024**

Narender Singh

... Appellant(s)

Versus

Matadin (Since Deceased) Through his Legal Representatives and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Sanjay Mittal, Advocate
for the appellant(s).**Anil Kshetarpal, J.**

1. The Regular Second Appeal in the States of Punjab and Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*,

2. In this regular second appeal, the plaintiff assails the correctness of the concurrent findings of fact arrived at by both the Courts below while dismissing his suit for grant of decree of declaration with the consequential relief of possession.

3. The suit was filed on 28.07.2004 by the appellant (Narender Singh son of late Sh. Basanta Ram). The dispute is with regard to the inheritance of the property of the plaintiff's father, namely late Sh. Kheta Ram alias Khetia and his wife Smt. Ganpati. The plaintiff claimed that late Sh. Basanta Ram was a son of late Sh. Kheta Ram alias Khetia and therefore, he is entitled to share in the property.

4. On the other hand, it is the case of the defendants that late Sh. Basanta Ram was adopted by Sh. Natha son of Sh. Baldev. It has also

come on record that late Sh. Basanta Ram started living with Smt. Ram Bai wife of Sh. Devkaran. On 09.03.1962, Smt. Ram Bai gifted the land measuring 60 kanals and 10 marlas in favour of her husband late Sh. Basanta Ram. Thereafter, late Sh. Basanta Ram as well as Smt. Ram Bai had been selling their property by executing various sale deeds from the year 1979 till 1991.

5. Both the Courts below, on appreciation of evidence, have come to a conclusion that late Sh. Basanta Ram was adopted by Sh. Natha son of Sh. Baldev. It has also been recorded in the revenue record that late Sh. Basanta Ram was given in adoption to Sh. Natha. Both the Courts below have also found that the plaintiff has filed a suit in the year 2004, whereas mutation of inheritance of late Sh. Kheta Ram alias Khetia was sanctioned in the year 1975. In between, the daughters of late Sh. Kheta Ram alias Khetia suffered a decree of their share in the property in favour of late Sh. Matadin and Sh. Sughar sons of late Sh. Kheta Ram alias Khetia. Both the Courts below have found that the plaintiff has filed the suit beyond the prescribed period of time as in this case it was filed approximately more than 30 years after the death of Sh. Kheta Ram alias Khetia.

6. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book along with the requisitioned record.

7. The learned counsel representing the appellant submits that there is no evidence to prove that late Sh. Basanta Ram was given in adoption to Sh. Natha and the period of limitation will not begin to run from the date the mutation was sanctioned.

8. This Court has considered the submissions made by the learned counsel representing the appellant.

9. While sanctioning the mutation, there is an entry in the revenue record that late Sh. Basanta Ram has been given in adoption. Moreover, late Sh. Basanta Ram remained alive for a period of approximately 30 years after the death of late Sh. Kheta Ram alias Khetia. Late Sh. Basanta Ram never claimed any right during his life time. He died in the year 1996. The plaintiff filed a suit in the year 2004 i.e. after a period of eight years from the

date of death of his father. The suit filed by the plaintiff has rightly been dismissed on the ground that it has been filed beyond the prescribed period of limitation.

10. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of fact arrived at by both the Courts below. Hence, the present appeal is dismissed.

11. The miscellaneous application(s) pending, if any, shall stand disposed of.

March 13, 2024
“DK”

(Anil Kshetarpal)
Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No