

2024:PHHC:006538
**113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-3820-2019 (O&M)
Date of decision: 18.01.2024

Kailash Chand

....Appellant

Versus

Hari Ram and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Shashi Kant Gupta, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

CM-10326-C-2019

1. For the reasons stated in the application, the delay of 27 days in refiling the appeal is condoned
2. CM stands allowed.

CM-10328-C-2019

3. For the reasons stated in the application, the delay of 18 days in filing the appeal is condoned.
4. CM stands allowed.

CM-10327-C-2019

5. Allowed as prayed for.

Main case

6. In this Regular Second Appeal, the defendant assails the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for declaration that they are owners in possession of 329/985th share, whereas,

defendant no.1 to 14 are owners of the suit property to the extent of 164/985th share and consequential sale deed dated 28.11.2001, executed by predecessor of defendant no.1 to 5 is not binding on their rights. The entire dispute in the present case arises from a mistake committed by the revenue authorities. It is not in dispute that Sh.Sukha, Sh.Chabila and Sh.Neta were owners of half share in the joint property whereas the remaining half was owned by Sh.Gopal s/o Sh.Dalwa. On the death of Sh.Sukha, who was owner of 1/6th share in the total land, his son Jutha was entitled to succeed to the aforesaid property. However, the revenue authorities committed an error and sanctioned the mutation with respect to 1/4th share of the total land. Subsequently, a correction slip was added, however, in the next jamabandi once again the aforesaid error continued.

7. Both the courts, on appreciation of evidences, have decreed the plaintiff's suit as there is an apparent mistake in the revenue record. Defendant no.1 to 5 are successors in interest of late Sh.Jutha. Such sale deed executed by the defendants beyond their share does not affect the rights of the plaintiffs.

8. Learned counsel representing the appellant, though made a sincere attempt, however, failed to draw the attention of the Court to any substantive misreading or non-reading of the evidence or perversity in the impugned judgments.

9. Keeping in view the aforesaid facts, no ground to interfere is made out.
10. Hence, dismissed.
11. All the pending miscellaneous applications, if any, are also disposed of.

18.01.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE