

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

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2024:PHHC:053398

RSA-716-2021

Date of decision: 20.04.2024

JAGDISH SINGH AND ANR.

..Appellants

Versus

KULWANT SINGH AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajbir Singh, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the plaintiffs challenge the correctness of the concurrent findings of fact arrived at by the Courts below while dismissing their suit for grant of decree of joint possession to the extent of 1/4th share each of the plaintiffs with a consequential relief of permanent injunction. The plaintiffs have also prayed that the sale deed executed by defendant No.4 is illegal. In substance, the plaintiffs claimed that the suit property was joint Hindu Family co-parcenary property and their father (defendant No.4) had no right to transfer the same. While contesting the suit, the defendants asserted that the property is self-acquired property of Sh. Dev Singh and the plaintiffs were separated from the family and settled at village Machhiwara. A family settlement was arrived at according to which, the share of the plaintiff was allocated to him.

2. Upon appreciation of evidence, both the Courts came to a firm conclusion that the plaintiffs have failed to prove that the property is joint Hindu family co-parcenary property. Ex.D-2 is a memorandum of family settlement arrived at between the parties on 12.07.2023. In the aforesaid settlement, the plaintiffs were given a separate residential house along with

Rs.30,000/- in order to separate him from the family. Thereafter, the plaintiffs settled at village Machhiwara.

3. The learned counsel representing the appellants contends that the Courts have erred while failing to appreciate that the property was ancestral. He submits that an excerpt of the revenue record was produced to prove this fact.

4. This Court has considered the submission of the learned counsel representing the appellants.

5. The excerpt has been dismissed by the trial Court in para 19. It has been noticed that Sh. Gurdev Singh became owner of the property from Sh. Norata Singh by virtue of Will dated 06.06.1986. Subsequently, property of Sh. Mehma Singh also came to Sh. Gurdev Singh by virtue of testamentary disposition. Anyway, there is a family settlement (Ex.D-2), which proves that there was partition in between the family members and the share of the plaintiff was separated.

6. Hence, no ground to interfere is made out.

7. Dismissed accordingly.

8. All the pending miscellaneous applications, if any, are also disposed of.

April 20th, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*