

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2265 of 1990 (O&M)
Date of Order:18.03.2024

Balwant Singh (deceased) through LRs and others

Versus

Mandu (deceased) through LRs and others

.Appellants

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen S. Bhardwaj, Advocate
for the appellants.

Mr. M.S.Dalal, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. In this regular second appeal, the plaintiffs assail the correctness of the judgment and decree passed by the First Appellate Court which in turn has reversed the judgment and decree passed by the trial court.
2. To understand the controversy involved in the present case, the relevant facts, in brief, are required to be noticed.
3. Sh. Harnam was the common ancestor. He had two sons, namely, Mandu and Lehri. Sh. Mandu was a sonless proprietor. Sh. Kanwar Singh son of Sh. Dhara Singh son of Sh. Lehri filed suit claiming that in a family settlement, Sh. Mandu has acknowledged him as owner of the property which was at one point of time owned by Sh.Mandu. In the aforesaid suit, Sh. Mandu filed admitting the written statement. Pursuant thereto, the civil court passed decree on 02.03.1982.
4. The decree passed by the court acknowledging family settlement does not require registration as it does not amount to transfer of

the property. Reliance can be placed on the recent judgment passed by the Supreme Court in **Khushi Ram and others vs Nawal Singh and others 2021 (SCC online) SC 128.**

5. Sh. Balwant Singh, Sh. Hukam Chand and Sh. Ratti Ram sons of Sh. Lehri, filed the present suit for grant of decree of declaration and possession on 02.09.1984. They claim that the property is ancestral and therefore, Sh. Mandu had no right to alienate the property by consent decree.

6. The trial court decreed the suit, however, the First Appellate Court reversed the judgment and decree passed by the trial court.

7. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book. along with the scanned record of the courts below.

8. The learned counsel representing the appellant contends that the consent decree would not confer any right upon Sh. Kanwar Singh as it is not registered. He submits that Sh. Kanwar Singh had no pre-existing right in the property of Sh. Mandu.

9. This court has considered the submissions of the learned counsel representing the parties.

10. Sh. Kanwar Singh is grandson of Sh. Lehri, who was brother of Sh. Mandu. In other words, he was one of the family member. Moreover, the plaintiffs have no pre-existing right in the property as Sh. Mandu was a sonless proprietor. Additionally, the parties belong to 'Jat community' and the suit property is located in Tehsil Jhajjar, District Rohtak. In **Sube Singh and another vs. Kanhiya Singh and others, 1964(2) SCR, 899**, the Supreme Court has held that amongst the 'Jat community' belonging to district Rohtak, the agricultural ancestral land can be alienated for consideration.

- 11.Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
- 12.Dismissed.
- 13.All the pending miscellaneous applications, if any, are also disposed of.

March 18, 2024

(ANIL KSHETARPAL)

nt

JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO