

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2674 of 1989 (O&M)

Date of Order:12.02.2024

Bahadur Singh and another

.Appellants

Versus

Puran Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Ajay Pal Singh, Advocate
for the appellants.**

**Mr. Hitesh Verma, Advocate
for respondent nos.1,2,3,6,7 and 9.**

ANIL KSHETARPAL, J

1. In this second appeal, the plaintiffs assail the correctness of the judgment and decree passed by the First Appellate Court which in turn set aside the judgment and decree passed by the trial court.

2. The dispute in the present case is with respect to 25 kanals and 8 marlas land. The previous suit filed by Sh. Puran Singh, Sh. Ajaib Singh and Sh. Malkiat Singh against Sh. Gurnam Singh, Smt. Bhagwan Kaur and Smt. Dial Kaur was decreed on 22.05.1982, as the defendants in that suit conceded to the claim of the plaintiffs. The plaintiffs are grand children of Sh. Ralla Singh, who was the common ancestor of the parties. He was owner of 97 kanals and 11 marlas. He had two sons, namely, Sh. Gurnam Singh and Sh. Baldev Singh and a daughter Smt. Dayal Kaur. Sh. Gurnam Singh was married to Smt. Kartar Kaur and blessed with three sons, Puran Singh, Ajaib Singh and Malkiat Singh, whereas Sh. Baldev Singh was married to Smt. Amarjit Kaur. It is the case of the plaintiffs that their

mother Smt. Amarjit Kaur after the death of Sh. Baldev Singh married Sh. Gurnam Singh and the plaintiffs were born. The plaintiffs are claiming the property on the basis of registered Will dated 03.01.1980, allegedly executed by Sh. Ralla Singh. Whereas, it is the case of the defendants that Smt. Amarjit Kaur never married Sh. Gurnam Singh and the plaintiffs are not from the loins of Sh. Gurnam Singh. The date of death of Sh. Ralla Singh has not come on record.

3. It has come on record that Smt. Amarjit Kaur inherited 6 acres of land from her first husband, namely, Sh. Baldev Singh, who in turn received the same from late Sh. Ralla Singh in a family settlement. The remaining property of Sh. Rall Singh after his death was mutated in favour of Sh. Gurnam Singh, Smt. Bhagwan Kaur and Smt. Dial Kaur. Subsequently, as noticed, the consent decree dated 22.05.1982 on the basis of family settlement was passed acknowledging that Sh. Puran Singh, Sh. Ajaib Singh and Sh. Malkiat Singh are owners. The trial court discarded the decree dated 22.05.1982, on the ground that it is not registered and therefore, cannot be enforced. However, the First Appellate Court found that the decree acknowledging the family settlement does not require registration. The First Appellate Court also allowed the plaintiffs to produce secondary evidence in order to prove the Will. However, the First Appellate Court after appreciation of the evidence came to a conclusion that the Will is surrounded by various suspicious circumstances which have not been explained by the plaintiffs, who are its propounders.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book as well as the requisitioned record which is in the digital form.

5. The learned counsel representing the appellants submits that the First Appellate Court has erred in reversing the judgment and decree passed by the trial court as the decree dated 22.05.1982, results in transfer of the property which is not permissible without its registration. He submits that the findings of the First Appellate Court with regard to Will is also not correct.

6. On the other hand, the learned counsel representing the respondents submits that in the year 1982, Sh. Gurnam Singh, Smt. Bhagwan Kaur and Smt. Dial Kaur, were recorded owners of the property in the revenue record and Smt. Amarjit Kaur admitted in her cross-examination that she inherited the property measuring 6 acres which is equivalent to 48 kanals from Sh. Baldev Singh. He submits that during the life time of Sh. Ralla Singh, Sh. Baldev Singh was given his share and the remaining property was succeeded by Sh. Gurnam Singh, Smt. Bhagwan Kaur and Smt. Dial Kaur, who in turn acknowledged Sh. Puran Singh, Sh. Ajaib Singh and Sh. Malkiat Singh as owners.

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

8. The settlement of disputes by way of family settlement is a well known and well recognized concept in Indian society. The courts from its inception have been recognizing and approving such settlements. An oral family settlement followed by memorandum of family settlement does not require registration. Even a Civil Court decree acknowledging family settlement does not require registration. In this case, the plaintiffs have failed to prove that Sh. Ralla Singh was alive on 22.05.1982. In fact, it has been proved that after the death of Sh. Ralla Singh, the land was mutated in

favour of Sh. Gurnam Singh, Smt. Bhagwan Kaur and Smt. Dial Kaur.

9. Furthermore, the plaintiffs have already inherited 6 acres of land which is equivalent to 48 kanals, whereas the defendants have become owners of 28 kanals and 3 marlas which is little bit more than 3 acres..

10. Keeping in view the aforesaid facts and discussion, no ground to interfere in the elaborate judgment passed by the First Appellate Court is made out.

11. Dismissed.

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

February 12, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO