

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

RSA-2147-1994 (O&M)
Date of decision: 30.04.2024

JAGIR KAUR ..Appellant

Versus

LABH SINGH & ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Somnath Saini, Advocate
for the appellant.

Mr. Jaspal Singh Maanipur, Advocate
Mr. Joypreet Meelu, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. 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 plaintiffs suit. The dispute between the parties is with respect to the property left behind by Smt. Krishan Kaur, the mother of the parties. Smt. Krishan Kaur along with her four sons inherited the property by virtue of a registered Will executed by her husband Sh. Atma Singh. In the aforesaid Will, it was provided that Smt. Krishan Kaur will have right to enjoy the property during her lifetime and thereafter, the property would equally be divided among the four sons.

2 Both the Courts have decreed the plaintiffs suit. Smt. Jagir Kaur-appellant (defendant before the trial Court) claims that Smt. Krishan Kaur by virtue of Section 14(1) of the Hindu Succession Act, 1956, became the absolute owner of the property.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the appellant submits that the plaintiffs suit was hopelessly time barred as Smt. Krishan Kaur died in the year 1979, whereas, the civil suit was filed on 02.03.1990. He submits that the period of limitation for filing a suit for declaration is three years, which lapsed before filing of the suit.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. It may be noted here that the plaintiffs while filing the suit have claimed that the defendant threatened to take over the possession of the property in December, 1989.

7. Both the Courts have culled out issue No.2 with respect to the objection of the appellant with respect to suit having been filed after expiry of limitation and decided in favour of the plaintiff. It has been held that the plaintiffs are in continuous possession of the entire property and the defendant was never in possession of the same.

8. When the plaintiff felt threatened from the defendant, he filed the suit. Moreover, an entry in the revenue record does not necessarily gives rise to the cause of action.

9. In this case, the following substantive issue arises for consideration:-

“Whether a Will, that establishes a life estate/ interest in favour of the testator’s wife in the first instance and upon her demise bequeath the property absolutely in favour of the testator’s son is enforceable and valid with respect to the testator’s son?”

10. The aforesaid issue has been decided by this Court in **RSA-1013-2018, titled as “Dinesh Kumar Grover Vs. Prem Lata Grover and others, decided on 18.07.2023.** After discussing the various judgments passed by the Courts from time to time, this Court came to a conclusion that where the testamentary disposition of the property creates a life estate and there is no evidence to prove that the aforesaid testamentary disposition was made on account of any pre-existing right including that of maintenance then the limited estate/life interest would not enlarge into complete ownership.
11. Keeping in view the aforesaid discussion, no ground to interfere is made out.
12. Dismissed accordingly.
13. All the pending miscellaneous applications, if any, are also disposed of.

April 30th, 2024
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(ANIL KSHETARPAL)
JUDGE

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