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Date of decision :10.04.2024

Gurpreet Singh **...Appellant**

Bant Singh ...Respondent

Gurpreet Singh **...Appellant**

Bant Singh ...Respondent

Present: Mr. A.D.S. Sukhija, Advocate
for the appellants.

Mr. J.S. Bhandohal, Advocate
for the respondent (in both the cases).

ANIL KSHETARPAL, J. (Oral)

1. With the consent of the learned counsel representing the parties, these two connected regular second appeals shall stand disposed of by a common order.

2. Two separate suits were filed by the appellant, one for the grant of decree of declaration with consequential relief of permanent injunction. In substance, he claimed that two sale deeds executed by his father, namely, Sh. Joginder Singh are not binding on his rights. The other suit was filed by

him to claim maintenance from his father-Sh. Joginder Singh. The First Appellate Court has reversed the judgment and decree passed in a suit for declaration whereas, in a suit for maintenance the plaintiff-Gurpreet Singh has been held entitled to Rs. 1 lakh, which was deposited during the course of trial.

3. Sh. Gurpreet Singh-plaintiff is a natural son of Karnail Singh. As per the findings of fact arrived at by the Courts below, he was adopted by Sh. Joginder Singh vide adoption deed dated 05.11.1993. The correctness of the aforesaid finding of fact is not challenged before this Court.

4. In the suit filed for declaration, it came on record that Sh. Joginder Singh had inherited the property on the basis of Will executed by his father Sh. Chanan Singh. It has also come on record that Sh. Joginder Singh received property from his three uncles, namely, Chhajju Singh, Nath Singh and Bhag Singh. It has also come on record that the entire property was mixed up and formed a common pool. Thus, the First Appellate Court has found that the sale deed executed by Sh Joginder Singh is valid as the plaintiff has failed to prove that the property was ancestral property. In fact, by virtue of two sale deeds, Sh. Joginder Singh has sold common land measuring 02 acres and 03 kanals. At the most, the property inherited by Sh. Joginder Singh from his father can be ancestral. However, he also received the property by virtue of a Will. The property which Sh. Joginder Singh received from his three uncles has again not been identified. It has been laid by the judgment passed by the Hon'ble Supreme Court in '**Mara and others vs. M.S.T. Nikko alia Punjab Kaur**', **AIR 1964 SC 1821** that if the ancestral and self-acquired property is mixed up and

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the party fails to identify ancestral property then the entire property is considered as self-acquired.

5. For the aforesaid reason as well as for the reasons recorded by the First Appellate Court, both the appeals are dismissed.

10.04.2024

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Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

No
No

(ANIL KSHETARPAL)
JUDGE