

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

114

2024:PHHC:031347

**RSA-435-2018 (O&M)
Date of decision: 05.03.2024**

SANTOSH

..Appellant

Versus

DHARAMBIR & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Jeet Singh, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the plaintiff assails the correctness of the concurrent findings of fact arrived at by the Courts below while dismissing her suit for the grant of decree of declaration that she is owner in possession of land measuring 48 kanal and 8 marlas out of total land measuring 484 kanal and 1 marla and the judgment and decree passed in Civil Suit No.247 of 1986 on 03.09.1996, is not binding on her rights. The plaintiffs, three brothers filed a suit against their father Sh. Pratap Singh claiming that in a family settlement, the suit property has devolved in their share. Sh. Pratap Singh admitted the claim of the plaintiffs, thus, the decree was passed. The appellant is a married daughter of Sh. Pratap Singh. She filed a suit in the year 2006 claiming that the property is ancestral property and her share has been taken away. The defendants contested the suit and pleaded that in fact Sh. Roop Ram had purchased 37 kanal and 4 marlas land and the plaintiff is not the coparcener. Both the Courts on appreciation of evidence came to a conclusion that the plaintiff has failed to prove that the property is ancestral property.

2. The learned counsel representing the appellant contends that from copies of mutation Ex.P-5 and P-7, it is evident that the property came in the hands of Sh. Pratap Singh @ Preet Ram from his grand-father Sh. Budh Ram. He submits that both the Courts have erred in dismissing her suit.

3. This Court has considered the submissions of the learned counsel representing the appellant.

4. The mutation of the land is not sufficient to prove that the suit property is ancestral. In this case, the family settlement, which was acknowledged in the year 1986, resulted in settlement of the dispute. The plaintiff filed a suit after a period of 20 years from the aforesaid judgment and decree.

5. Furthermore, the plaintiff has only produced jamabandi for the year 1980-81 and 2000-01, to prove her case. The old revenue record has not been produced to prove that the suit property was ancestral property.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Dismissed accordingly.

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

March 05th, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*