

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

RSA-1181-2021 (O&M)

Date of decision: 12.03.2024

Rohtash Kumar and another

....Appellants

Versus

Krishan Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Manu Loona, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the plaintiffs assail the correctness of the concurrent findings of fact arrived by the courts below while dismissing their suit for the grant of decree of declaration to the effect that notwithstanding anything containing contrary to any revenue record, any title deed or transfer deed executed by Sh.Bhagirath Ram son of Sh.Pema Ram in favour of Sh.Sohan Lal vide transfer deed dated 10.12.2013 with respect to 24 kanals land and transfer deed executed by Sh.Bhagirath Ram in favour of Sh.Madan Lal vide transfer deed dated 27.12.2013 qua 13 kanals 4 marlas of land is illegal, null and void as the suit property is Joint Hindu Family ancestral and coparcenary property.

2. In order to comprehend the issue involved in the present case, some relevant facts, in brief, are required to be noticed.

3. The plaintiffs are great grandsons of Sh.Pema Ram. At the relevant time, Sh.Pema Ram was owner of the property. In the year 1968-69 Sh.Pema Ram transferred 37 kanals of land in favour of his son

Sh.Bhagirath Ram, 27 kanals land in favour of his son Sh.Lakhmi Chand, 35 kanals 25 marlas land in favour of Smt. Rukmani Devi, wife of Sh.Pema Ram and 18 kanals 14 marlas land in favour of Sh.Krishan Lal son of Sh.Bhagirath Ram (his own grandson). When Sh.Pema Ram transferred the property in favour of his other family members namely Sh.Madan Lal and Sh.Sohan Lal, the suit was filed. Both the courts have concurrently found that the plaintiffs have failed to prove that the property is joint Hindu Family ancestral and coparcenary property.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel representing the appellants contends that admittedly Sh.Pema Ram, who was a common ancestor was the owner of the said property. Therefore, the property is ancestral.

6. This Court has considered the submissions made by the learned counsel representing the appellants.

7. Sh.Pema Ram has been treating himself to be owner of the property and distributing it amongst his family members, as already noticed. The plaintiffs or their predecessors never objected to the same. The plaintiff (Krishan Lal) was given 18 kanals 14 marlas land. Similarly, grandfather of the plaintiff was given 35 kanals land. They never objected to the same. Moreover, the plaintiffs are required to prove that the property in dispute was joint Hindu Family property and the transfer by Sh.Pema Ram in favour of the defendants was not permitted. However, the plaintiffs have failed to prove the same.

8. Keeping in view the aforesaid facts, no ground to interfere
is made out.
9. Hence, dismissed.
10. All the pending miscellaneous applications, if any, are also
disposed of.

12.03.2024
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No