



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO No.62 of 2014 (O&M)

Date of Order:25.03.2025

Shyam Singh

.Appellant

Versus

Parveen and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jasbir Mor, Advocate
for the appellant.

Mr. Kartar Singh Malik-I, Advocate
for the respondents.

ANIL KSHETARPAL, JUDGE (Oral)

1. The defendant assails the correctness of the First Appellate Court's order while reversing the trial court's order.

2. The plaintiff filed a suit while claiming the following reliefs:-

“(a) That a decree for declaration in favour of the plaintiff and against the defendant no.2 declaring that properties Schedule A and based on which decree and judgment dated 18.11.1969 and Mutation No. 1191 dated 11.9.1970 based on decree and further revenue record in this respect are illegal, null and void and not binding upon the rights of the plaintiff in any manner on the ground mentioned in para no. 9 (a) to (g) of the plaint, be passed;

(b) A decree for declaration in favour of the plaintiff and against the defendants no. 5 declaring the decree and judgment dated 27.8.1992 passed in declaratory suit bearing No. 566 dated 27.8.1992 as illegal, null and void and only paper transaction and not binding upon the



legal rights of the plaintiffs in any manner on the grounds mentioned in para no. 10 (a) to 10 (e) of the plaint;

(c) A declaratory decree in favour of the plaintiff and against the defendant no.1 declaring the plaintiff as joint owner and in joint possession of 1/6th share out of the total share defendant no.1, be passed;

(d) A decree for permanent injunction in favour of the plaintiff and against the defendant no.1, 2 and 5 restraining them permanently from interfering in the joint title and joint possession upto the extent of share of the plaintiff i.e. 1/6th share out of the total share of defendant no.1 in any manner i.e. by way of alienation and dispossession in any manner, be passed;

(e) Any other relief to which the plaintiff is deemed fit and proper also be awarded to the plaintiff.”

3. Four separate applications were filed by the defendant under Order VII Rule 11 CPC, to reject the plaint on the ground that the plaintiff has no cause of action to file the suit.

4. The trial court allowed the applications, however, the First Appellate Court reversed the same on the ground that the plaintiff has disclosed the cause of action and issue of limitation is a mixed question of law and fact and is dependent upon the evidence to be adduced by the parties.

5. The learned counsel representing the appellant contends that the plaintiff was born after the decree was passed in favour of Shyam Singh, Ramesh Chander, Neorattan Singh and Nahar Singh, on 18.11.1969. He submits that the plaintiff's suit for declaration is not maintainable because the plaintiff was born lateron.



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

7. The scope of rejecting the plaint at the threshold is extremely limited. The contents of the plaint are required to be examined while deciding the application under Order VII Rule 11 CPC. The parties are yet to lead evidence. The issue of limitation is a mixed question of law and fact.

8. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

9. Dismissed.

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

(ANIL KSHETARPAL)
JUDGE

March 25, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No