



Chanan Ram v. Jaitan Deceased widow of Manphool Ram through her LRs and others (P&H)

(2022) Law Today Live Doc. Id. 17000

PUNJAB AND HARYANA HIGH COURT

Before: Anil Kshetarpal, J.

RSA-1114-2021 (O&M)

Date of decision:28.07.2022

Reserved on: 20.07.2022

Chanan Ram

Appellant

Versus

Jaitan Deceased widow of Manphool Ram
through her LRs and others

Respondents

Present:

Mr. Manu Loona, Advocate for the appellant

Hindu Succession Act, 1956 (30 of 1956), Section 6 -- Joint Hindu Family coparcenary property -- Ancestral property – Self-acquired property – Sale challenged claiming co-parcenary -- Plaintiff did not make any attempt to identify the ancestral property -- Thus, the ancestral property got blended with the self-acquired property -- It is well settled that unless the plaintiff proves and separately identifies the ancestral property, the entire property shall be construed to be self-acquired -- Both the courts below, correctly, dismissed the suit – Regular Second Appeal dismissed.

(Para 1-5)

Cases referred:

1. Mara and others vs. s Nikko @ Punjab Kaur and others, 1964 AIR (SC) 1821.
2. Labh Singh and others vs. Smt. Jasso and another, 1937 SCC (online) Lahore 265.

ANIL KSHETARPAL, J. –

1. The plaintiff, while assailing the concurrent findings of fact arrived at by the courts below, has filed the present Regular Second Appeal. Both the courts have dismissed his suit for grant of decree of declaration to the effect that he, being a member of the Joint Hindu Family, is a coparcener in joint possession of the land measuring 11 kanals and 10 marlas and accordingly, the sale deeds executed on 01.04.2011 as well as 31.12.2015 are not binding on his rights. The plaintiff claims that the suit property is joint Hindu Family coparcenary property and the sale deed executed by the defendant no.1, 4 and 5 in favour of defendant no.3 with respect to land measuring 11 kanals and 10 marlas and also the sale deed dated 31.12.2015 executed by the defendant no.5 during the pendency of the suit in favour of defendant no.7, is not binding on his rights. The plaintiff claims that all the parties to the litigation are successors of Sh. Manphool Ram who was the Karta of the joint Hindu Family.

2. The defendants while contesting the suit asserted that the property is a self-acquired property and the plaintiff has no locus standi to challenge the sale deed.

3. It has come on record that Sh.Nathu Ram son of Kalu Ram, predecessor of the parties was occupying the land measuring 44 kanals and 15 marlas in the capacity of Gair Marusi Tenant. In view of the provisions of the Punjab Occupancy Tenant (Vesting of Propriety Rights) Act, 1952, the ownership of the property is vested from the appointed date. Thus, Sh. Nathu Ram (son of Sh. Kalu Ram) became the owner of the



property. Thereafter, on the death of Sh. Nathu Ram the property came to be inherited by his class I heirs namely Smt.Chetan (widow), Sh.Manphool and Sh.Bahadur (sons), Smt.Omi Bai and Smt.Gomi Bai (daughters). Subsequently, in the jamabandi for the year 1978-79, Sh.Nathu Ram was reflected as owner of 76 kanals and 11 marlas of land but the source of additional land is not clear. On the death of Smt.Chetan, widow of Sh.Nathu Ram, her share in the property came to be inherited by Sh.Manphool, Sh.Bahadur (sons) and Smt.Omi Bai & Smt. Gomi Bai (daughters). Smt.Omi Bai and Smt.Gomi Bai transferred their share in the land measuring 76 kanals and 11 marlas in favour of their brothers namely Sh.Manphool and Sh.Bahadur, equally. Thus, Sh.Manphool Ram received the land from many sources. The plaintiff did not make any attempt to identify the ancestral property. Thus, the ancestral property got blended with the self acquired property. It is well settled that unless the plaintiff proves and separately identifies the ancestral property, the entire property shall be construed to be self-acquired. Reliance in this regard can be made on **Mara and others vs. s Nikko @ Punjab Kaur and others' 1964 AIR (SC) 1821** and **'Labh Singh and others vs. Smt. Jasso and another' 1937 SCC (online) Lahore 265**. Thus, both the courts have, correctly, dismissed the suit. Learned counsel representing the appellant though made sincere attempts, however, failed to draw attention of the Court to any substantive error or perversity in judgment passed by the First Appellate Court. The First Appellate Court even permitted the plaintiff to produce additional evidence but he failed to prove his case.

4. In view thereof, no ground to interfere is made out.
5. Hence, dismissed.
6. All the pending miscellaneous applications, if any, are also disposed of.

Appeal dismissed.
