

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

R.S.A. No. 2384 of 2006

Date of decision: September 30, 2008

Chand Singh

.. Appellant

v.

Ranjit Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. P. K. Ganga, Advocate for the appellant.

**Rajesh Bindal J.**

The plaintiff is in appeal before this Court against concurrent findings of fact recorded by both the Courts below, whereby the suit filed by him for declaration was dismissed.

Briefly, the facts are that the plaintiff filed the suit seeking a decree of declaration to the effect that he along with defendants-respondents was co-owner of land measuring 253 kanals 12 marlas of Khewat No. 33, land measuring 89 kanals 12 marlas of khewat No. 34, total area measuring 343 kanals 04 marlas situated in the area of Village Hassu, Tehsil Dabwali, District Sirsa and further the order of partition dated 4.3.1992 passed by Tehsildar-cum-Assistant Collector Ist Grade in partition application No. 195- Tehsil, titled as "Ranjit Singh vs. Darshara Singh etc." and order dated 21.10.1997 passed in R.O.R. No. 577 of 1994/95, titled as "Ranjit Singh vs. Chand Singh and 578 of 1994/95 titled as "Ranjit Singh vs. Inder Singh" were null and void. The trial Court upheld the partition of the suit land as carried out by the revenue authorities. As the partition of the land was upheld, it was further held that the parties to the suit were no more co-sharers therein. The judgment and decree of the trial Court were upheld in appeal by the lower Appellate Court.

Learned counsel for the appellant submitted that fair opportunity of hearing was not granted to him by the revenue authorities while carrying out the partition of the property and further the relevant factors required to be considered for carrying out the partition were not taken care of. The submission is that his name was wrongly mentioned in the partition proceedings by the respondents as Nand Singh with a view to harm him.

Having heard learned counsel for the appellant, I do not find any merit in the submissions made by him. The learned Financial Commissioner, in order dated 21.10.1997, impugned before the Civil Court, observed as under:

“5. I have heard the counsels for the two parties. The narration made in the preceding paragraphs clearly brings out that the partition case has been pending for a very long time. It was filed before the AC on 31.3.86. The exparte proceedings were ordered by the AC on 3.11.87, when the respondents did not appear before him in spite of proclamation having been made. Not unexpectedly, the respondents appeared on the next date of hearing i.e. 1.12.87. Chand Singh appellant himself made a statement before the AC on 19.2.88 and wanted a separate kurra but did not press the matter. It is very significant that after the partition order was passed by the AC on 2.5.89, no appeal was filed by Chand Singh, while 5 other respondents went in appeal before the Collector. It is obvious that Chand Singh (appellant before the Collector in 23.3.94 order) had lost his right of appeal/revision at that time itself.

6. A perusal of the record further brings out that there is no mistake about the name of Chand Singh in the original partition application filed by Ranjit Singh in 1986. The name of Chand Singh s/o deceased Sher Singh s/o Heera has been clearly mentioned in that application as respondent No.6 and the same is without any cutting, correction or erasure.

7. All the above facts which have been mentioned in the last 2 paragraphs clearly bring out that the appeal filed by Chand Singh before the Collector on 4.5.93 was thoroughly frivolous and vexatious. The conduct of Chand Singh, all along, has been quite unsatisfactory. The Collector and also the Commissioner, while making their orders dated 23.3.94 and 9.3.95 respectively have not applied themselves adequately. I, therefore, accept this revision petition, uphold the orders of the AC dated 4.3.92 and set aside the orders of the Collector dated 23.3.94 and the Commissioner dated 9.3.95.”

Keeping in view the aforesaid findings recorded by the learned Financial Commissioner, the contention raised by learned counsel for the appellant is totally misconceived. There was no error in the mentioning of his name. In fact, the appellant had appeared before the Assistant Collector and got his statement

recorded and after the order was passed by the Assistant Collector on 2.5.1989, the appellant, being not aggrieved against the same, never filed any appeal. It was only that other co-sharers filed appeal before the Collector. The partition proceedings in the present case were initiated way back on 31.3.1986. Five different authorities including the Courts below have already gone into the claim made by the appellant. No substantial question of law arises.

Accordingly, the appeal is dismissed.

(Rajesh Bindal)  
Judge

30.9.2008  
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