
(2005) 02 P&H CK 0096

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1965 of 2001

Bant Singh

APPELLANT

Vs

Lakhbir Singh and Others

RESPONDENT

Date of Decision : 14-02-2005

Acts Referred:

Citation : (2005) 2 CivCC 496 : (2005) 140 PLR 846 : (2005) 2 RCR(Civil) 676

Hon'ble Judges : Adarsh Kumar Goel, J

Bench : Single Bench

Advocate : V.K. Jain and J.L. Malhotra, for the Appellant;

Final Decision : Dismissed

Judgement

Adarsh Kumar Goel, J.—The appellant filed a suit for declaration that he was co-owner of the suit premises and that decree dated 18.10.1996, Ex.D-7 in favour of defendant Lakhbir Singh etc. at the instance of Dharam Singh, who was brother of the plaintiff and uncle of the defendants and who died issueless, was void.

2. The defendants contested the suit by virtue of decree Ex:D-7 in their favour. Plea of Will dated 10.5.1990 Ex.D-1 was also taken.

3. The trial Court referred to the admission of the plaintiff that all the brothers had been living separately for the last 15 years and they had separate vote and ration cards. The suit property was, thus, held to be independent and separate property of Dharam Singh. From the evidence of Amrik Singh, DW-3 who proved written statement by Dharam Singh, admitted that claim of the defendants in the present suit, it was held that the decree based on admission on the basis of family settlement, was a valid decree. Due execution of the Will was also held to be proved from the evidence of attesting witness Piara Singh DW-1, Banarsi Dass, DW-4, deed-writer and Kuldip Singh, DW-6, another attesting witness.

4. On appeal, decree of the trial Court was upheld (under Issue No. 8) but even

on the validity of the Will was set aside on the ground that the necessary parties who were sisters of the deceased, had not been impleaded.

Hence this appeal.

5. Learned counsel for the appellant submitted that the decree was void for want of registration as the defendants had no pre-existing right in the suit property. Reliance is placed on a judgment of the Apex Court in *Bhoop Singh Vs. Ram Singh Major and others*, .

6. There is no merit in this contention. In *Ram Charan Das Vs. Girjanandini Devi and Others*, , it was held "the word "family" in the context is not to be understood in a narrow sense of being a group of persons who are recognised in law as having a right of succession or having a claim to a share in the property in dispute....The consideration for such a settlement, if one may put it that way, is the expectation that such a settlement will result in establishing or ensuring amity and goodwill amongst persons bearing relationship with one another..." "The Courts lean strongly in favour of family arrangements that bring about harmony in a family and do justice to its various members and avoid, in anticipation, future disputes which might ruin them all."

7. In *Tek Bahadur Bhujil Vs. Debi Singh Bhujil and Others*, , it was held that family arrangement may be oral or its terms may be reduced into writing as a memorandum of what was agreed upon between the parties and in such a case, registration is not required. In *Kale and Others Vs. Deputy Director of Consolidation and Others*, , the view that family settlement was not required to be registered, was approved by the Apex Court. In para 24 of the above said judgment, it was observed by the Apex Court that family arrangement was binding on the parties and operated as an estoppel against a party who took advantage thereof. In para 27, it was observed that "the word "family" cannot be construed in a narrow sense so as to confine that parties to the family arrangement only to persons who have a legal title to the property." In para 36, reference was made to Privy Council judgment in AIR 1927 227 (Privy Council) to the effect that even a person who does not have a right of inheritance but was closely related member of the family, could be covered by the family settlement. Referring to the said judgment, it was observed "yet having regard to the near relationship which the brother and the son-in-law bore to the widow, the Privy Council held that the family settlement by which the properties were divided between three parties was a valid one."

In view of the above contention that the defendants had no pre-existing right, cannot be accepted.

There is, thus, no merit in this appeal. No substantial question of law arises. The appeal is dismissed.