2025:PHHC:173272

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 1473 of 1994(O&M)

Surja Ram (deceased)
Through his LRs & Anr.

. . . . Appellants

Vs.

Prithvi Raj (deceased)
Through his LRs & Ors.

. . . . Respondents

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Reserved on: 04.12.2025
Pronounced on: 11.12.2025
Pronounced fully/ operative: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Argued by: - Mr. Sandeep Khunger, Advocate,
for the applicants-appellants.

Mr. S.S. Sidhu, Advocate
For respondent No.1.

Mr. Sanjeev Kumar Arora, Advocate
For respondent No.2.

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DEEPAK GUPTA, J.

The present second appeal has been filed by the defendants, who are aggrieved by the reversal of the trial Court judgment.

2. The plaintiff, Prithvi Raj, had instituted a suit seeking decree of declaration that the joint Hindu family continued to be the owner in possession of agricultural land measuring 94 kanals 3 marlas situated in village Nihal Khera, Tehsil Fazilka, notwithstanding a decree dated 06.02.1987 suffered by his father, Mukh Ram, in favour of his brother Surja Ram. He also sought injunctions restraining the defendants from transferring the land or taking possession on the basis of the said decree and revenue partition proceedings. The trial Court dismissed the suit on 21.10.1992, but the First

Appellate Court overturned the dismissal and decreed the suit on 26.04.1994. It is this reversal, which the defendants have challenged in the present appeal.

3. The relationship among the parties is undisputed. One Mukh Ram had three sons—Surja Ram, Pat Ram, and the plaintiff Prithvi Raj. The land in dispute stood in the name of Mukh Ram. The plaintiff asserted that the parties constituted a joint Hindu family and that the property, though in the name of the father, was ancestral coparcenary land. According to him, the decree dated 06.02.1987 in Civil Suit No. 648-1 of 1987, wherein Mukh Ram acknowledged one-half share in favour of Surja Ram, was collusive, contrary to legal necessity, and intended to deprive the plaintiff of his coparcenary interest.

4. On the other hand, the defendants pleaded that a family settlement had taken place much earlier under which each of the three sons received one-fourth share from the father, who retained one-fourth for himself. The plaintiff, according to them, received 23 kanals 11 marlas as his one-fourth share and later had a sale deed executed in his favour merely to formalize the family arrangement. The decree in favour of Surja Ram, they contended, only reflected the portion allotted to him under the family settlement, and therefore the plaintiff, having already taken his share, was not entitled to challenge the transaction.

5. The trial Court examined the evidence, including revenue records and consolidation papers, and observed that the land had originally been held by Har Krishan, father of Mukh Ram, as a *maurusi* tenant. Upon Har Krishan's death, the *maurusi* rights devolved on Mukh Ram, who subsequently became owner in cultivating possession after proprietary rights were vested by operation of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952. The trial Court accepted the oral admissions that the property was ancestral in nature and held it to be joint Hindu family property, but found on evidence that a family settlement had already been acted upon. It noted that each of the sons had been allotted one-fourth share; that the plaintiff had obtained a sale deed of his share without paying consideration; and that the

decree in favour of Surja Ram reflected the father's 1/4th share and the share already allotted to Surja Ram. In these circumstances, the trial Court held that the decree was neither fraudulent nor illegal and dismissed the suit.

6. However, the First Appellate Court took the opposite view. It held that no family settlement had taken place and that the decree dated 06.02.1987 was illegal because the property had not been partitioned and, therefore, the father could not have transferred coparcenary property in favour of one son. It, therefore, accepted the appeal and decreed the plaintiff's suit.

7. Before this Court, the primary question arising for consideration is whether the land in the hands of Mukh Ram was ancestral coparcenary property, or his self-acquired property. The answer to this question is pivotal, for if the land was self-acquired, Mukh Ram had full authority to deal with it as he pleased; and if ancestral, his right to alienate it was restricted and open to challenge by the plaintiff.

8. A close examination of the revenue entries reveals that the land was never ancestral in the legal sense. The Jamabandi shows that ownership stood in the name of "Mamraj etc.", whereas Harkishan was recorded merely as *maurusi* tenant. After his death, mutation records reflect that the tenancy rights were inherited by Mukh Ram. It is only upon the enforcement of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 that proprietary rights were conferred for the first time upon occupancy tenants like Mukh Ram. After consolidation, the Jamabandi for 1961-62 shows him as full owner in cultivating possession. These entries conclusively establish that ownership came to him for the first time by statutory operation and not by ancestral succession.

9. The legal consequence of such vesting is well-settled. This Court has consistently held that when proprietary rights are conferred under the 1952 Act, the land becomes self-acquired property in the hands of the person upon whom such rights are vested. The decisions in ***Mst. Karmi v. Bachna, 1959 P.L.R. 313; Fakira v. Smt. Rajo, 1956 P.L.R. 195;*** and more recently ***Inderjit Singh v. Balbir Singh*** ***[2024:PHHC:044959]*** reiterate that occupancy tenants,

who become owners through statutory vesting acquire ownership for the first time, and the property thereafter cannot be treated as ancestral. Thus, oral admissions or mistaken assumptions by parties about ancestral nature cannot override the legal character flowing from the statute. In the present case, therefore, the land in the hands of Mukh Ram was self-acquired and not ancestral.

10. Once this conclusion is reached, much of the plaintiff's case loses its foundation. Since the land was self-acquired property of the father, his right to partition or alienate it was absolute. The evidence on record clearly supports the existence of a bona fide family settlement. The plaintiff himself filed a suit on 25.05.1987 (copy Ex.D4) claiming one-fourth share on the basis of the same family settlement; the written statement Ex.D5 filed by his father unequivocally admitted such settlement; and the plaintiff subsequently had a sale deed executed in his favour for his 1/4th share without paying any consideration (as testified by father Mukh Ram), which only reinforces that the sale deed was in fact a mechanism to formalize the family arrangement. He thereafter withdrew his earlier suit after having accepted and secured his portion. Even the order of the Assistant Collector correcting the Khasra Girdawari reflects recognition of the same settlement. The evidence further shows that Mukh Ram was living with Surja Ram, and, in pursuance of the family arrangement, he suffered the decree dated 06.02.1987 in favour of Surja Ram for the share that he had himself retained. Later, for the remaining portion meant for his third son, he executed a Will (Ex.D1) in favour of Pat Ram.

11. All these circumstances leave no doubt that a family settlement had genuinely taken place and had been accepted and acted upon by all parties. Such settlements are looked upon with great favour by courts, and even if informally written or recorded, they are upheld so long as they are fairly and voluntarily entered into. The Supreme Court in ***Kale v. Deputy Director of Consolidation (1976)*** has emphasized that family arrangements meant to bring peace and distribute property equitably should be enforced to avoid protracted litigation.

12. Once the family settlement is established and the property is determined to be self-acquired in the hands of the father, the decree dated 06.02.1987 cannot be termed fraudulent or void. It only implemented what the parties had already agreed upon. The plaintiff, who had taken full benefit under the same settlement, is clearly precluded from challenging the transactions, which extended similar benefit to his brothers. His conduct in remaining silent until revenue partition proceedings began, further weakens his claim.

13. In these circumstances, the First Appellate Court fell in clear error by assuming the land to be ancestral; and by ignoring overwhelming evidence of family settlement, and treating a legitimate consent decree as null and void. The judgment of the trial Court was based on a correct appreciation of both law and facts and ought to have been upheld.

14. Accordingly, the findings of the First Appellate Court cannot be sustained. The trial Court's judgment dismissing the plaintiff's suit deserves to be restored. It is ordered accordingly and the suit stands dismissed, with the parties left to bear their own costs.

15. The instant regular second appeal is, thus, allowed.

(DEEPAK GUPTA)
JUDGE

11.12.2025

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Whether Speaking/reasoned *Yes*
Whether reportable *No*

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