



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

107

RSA-3077-2024 (O&M)

Date of Decision: 01.07.2025

NIRMAL KAUR AND OTHERS

. . . . APPELLANTS

Vs.

IQBAL SINGH @ RINKU

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Rahi Mehra, Advocate, for the appellants.

DEEPAK GUPTA, J.

It is defendant's Regular Second Appeal against the concurrent findings of the Courts below.

2. Plaintiff-Iqbal Singh @ Rinku (*respondent herein*) is the son; defendant No.1-Nirmal Kaur (*appellant No.1 herein*) is the widow; and defendants No.2 & 3-Renu Bala and Kuldeep Kaur, respectively (*appellants No.2 & 3 herein*) are the daughters of Rajpal Singh @ Rampal. Plaintiff sought decree of separate possession by way of partition of the three properties mentioned in head note of the plaint to the extent of his 1/4th share claiming that these properties were owned by his father Rajpal Singh @ Rampal, who expired on 20.04.2016, leaving behind the parties to the suit to be the only surviving legal heirs.

3. Both the Courts below found that property No.514 situated at Sandhu Colony, Kunde wala Khoo near Dhoom da Gurdwara, Majitha Road, Amritsar was the self-acquired property of defendant No.1-Nirmal Kaur, being purchased by her by way of registered sale deed dated 13.10.1995. The second property i.e. shop No.35, situated at DD market, Ram Bagh, Amritsar was found to be owned by Municipal Corporation, which was in possession of Rajpal Singh @ Rampal as a tenant. It was found that plaintiff did not have any tenancy rights in the said property.

4. However, as far as the 3rd property is concerned i.e. House No.3836 situated in Gali No.7, Tandon Nagar Gurudwara, Batala Road, Amritsar, it was proved to be owned by Rajpal Singh @ Rampal, which had been purchased by him by virtue of sale deed dated 24.10.1977 (Ex.D8). Accordingly, the trial Court partly decreed the suit by holding that plaintiff was entitled to 1/4th share in the said property by separate possession. The judgment dated 17.12.2019 to this effect of the trial Court was upheld by the First Appellate Court, vide judgment dated 20.09.2024, dismissing the appeal of the defendants-appellants herein.

5. Assailing the aforesaid concurrent findings, it is contended by learned counsel that plaintiff-respondent (Iqbal Singh @ Rinku) had been disinherited by Rajpal Singh @ Rampal during his lifetime by virtue of an affidavit and by way of publication in the newspaper.

6. The Courts below have rightly taken the view that a legal heir cannot be disinherited by simply executing an affidavit or making a publication in the newspaper. Until and unless, there is a registered document, disinheriting a legal heir; or there is a Will of the owner, the legal heir cannot be disinherited on the basis of affidavit or publication in the newspaper.

7. As such, this Court does not find any ground to interfere in the concurrent findings of facts recorded by the Courts below, which are based upon proper appreciation of factual and legal position.

8. Holding the present appeal to be devoid of any merit, the same is hereby dismissed.

01.07.2025

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No