

PBFZ020040352023



Presented on : 11-09-2023
 Registered on : 11-09-2023
 Decided on : 24-10-2024
 Duration : 1 years, 1 months, 13 days

IN THE COURT OF
Civil Judge Junior Division-6 AT Ferozepur, Ferozepur
Presided Over by Ms. Amandeep Kaur Rathor

CS/1610/2023

Rajinder Singh son of Anoop Singh, resident of Village Wahge Wala,
 Khai, Tehsil and District Ferozepur.**Plaintiff.**

Versus.

Sukhwinder Kaur wife of Anoop Singh, resident of Village Wahge Wala,
 Tehsil and District Ferozepur

.....**Defendants**

Civil Suit for permanent injunction restraining the defendants from land measuring 04 Kanals 10 Marlas, out of share 7-1/2 Sarsai, out of total land measuring 21 Kanals 05 marlas, comprised of Khewat No.205, Khatoni no.294, Rect No.26, Killa No.21/2/1(2-9), 21/2/2(2-8), Khewat No.258, Khatoni no.365, Rect No.49/13(0-4), Khewat no.314, Khatoni no.432, Rect No.30, Killa No.6(8-0), Khewat No.329, Khatoni no.447, Rect No.31, Killa No.1(8-0), Hadbast No.75, situated in the area of Village Wahge Wala, Tehsil and District

Ferozepur as per jamabandi for the year 2019-2020, disposing the land by way of sale, gift, mortgage in any manner, on the basis of oral as well as documentary evidence of all kinds of sorts

Present : Sh. Amit Kumar Sharma Advocate, counsel for plaintiff.
Sh. Rahul Rajat Sharma Advocate for defendant
(defence struck off vide order dated 04.04.2024)

JUDGMENT

1. The present suit has been filed by plaintiff against defendant for Permanent Injunction, as fully detailed in the head note of the plaint.
2. Succinctly, the assertions made in the plaint are that the suit land i.e. land measuring 04 Kanals 10 Marlas as mentioned in detail in headnote of the plaint as per jamabandi for the year 2019-2020 is a coparcenary property and received by defendant from her husband and further husband of defendant namely Anoop Singh received the same from his forefather. Land in question is not a self acquired property of defendant. It is further submitted that suit land is coparcenary property which falls in definition of ancestral property. Defendant received suit land from her husband Anoop Singh being his class-1 legal heir as natural succession. It is the law of land that if any coparcener property is in hands of any person, then he can use the same for his livelihood but cannot

disposed the same without any legal necessity. In present case, defendant is using suit land for his livelihood and she has no legal necessity to dispose of suit land. Plaintiff came to know from reliable sources that defendant is going to dispose suit property without any legal necessity to her sons namely Jasbir Singh and Rashpal Singh. Hence the present suit.

3. Upon issuance of summons of the suit, defendant appeared in the court on 12.10.2023 through his counsel but failed to file written statement despite availing numerous opportunities and ultimately, defence of defendant was struck of vide order dated 04.04.2024 and case was adjourned for evidence of the plaintiff.

4. However, despite availing numerous effective opportunities, plaintiff failed to lead any evidence, either oral or documentary, whatsoever. Even he himself did not care to step into the witness box to substantiate his claim. Perusal of the file reveals that plaintiff has taken seven effective opportunities to conclude his evidence. Today, the case of plaintiff was fixed for plaintiff evidence subject to last opportunity along with cost of Rs.200/- to be paid by plaintiff in DLSA, but despite this fact, neither cost is paid by plaintiff nor any evidence is led by him. Learned counsel for plaintiff requested for another adjournment to lead plaintiff evidence, without

showing any sufficient ground. Since, it is evident from the file itself that sufficient opportunities were already given to plaintiff to conclude his evidence as per law but he has failed to lead any evidence, as such, without finding any feasible ground to again adjourn the present case for evidence of plaintiff, his evidence is closed by order.

5. This court has heard learned counsels for both the parties and has gone through the file carefully with their able assistance.

6. Perusal of the file reveals that plaintiff has not led any evidence to prove the averments of plaint. Even he has not examined himself. It is well settled that plaintiff has to stand on his own legs, but in the present case, plaintiff has not dared to step into the witness box to substantiate the pleas taken by him in the plaint. It is settled position of law that pleadings are not the Gospel truth, which can be believed straightway. Rather, reliance can be placed upon it only if the same are substantiated through evidence. In this regard, **Hon'ble Apex Court** has held in **Ishwar Bhai Patel Vs. Harihar Bahera 1999(2) C.C.C. 01 (S.C.)** that *party not entering into witness box to make statement on oath in support of his pleadings, adverse inference would be drawn that what he has stated in the pleadings is not correct*. As such, on the basis of law

laid down by Hon'ble Supreme Court, it can be validly concluded that plaintiff has failed to prove his case.

7. In the light of aforesaid discussion, the suit of plaintiff fails and the same is hereby dismissed with cost under Order 17 Rule 3 CPC. Keeping in view the facts and circumstances of this case, plaintiff is left to bear his own cost. Decree sheet be prepared accordingly and file be consigned to the record room after due compilation.

Sd/-

Pronounced in open court:
Dated:24.10.2024

(Amandeep Kaur Rathor)
Civil Judge (Jr. Divn)
Ferozepur.
(UID No.PB-0663)

Indu stenographer Gr.II
(Direct Dictation)