

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).9104 OF 2010

SADHU SINGH (D) BY LRS. & ORS.

...APPELLANT(S)

VERSUS

CHHINTO (D) BY LRS. & ORS.

...RESPONDENT(S)

O R D E R

1. The challenge in this appeal is against the judgment and decree of the High Court of Punjab and Haryana whereby the High Court has reversed the decree passed in favour of the plaintiff-Sadhu Singh (now deceased) in the suit. The suit incidentally was for a declaration that the defendants/appellants (Respondent Nos. 1 to 3 herein) who were the female heirs through a pre-deceased son of the original owner of the land have no right to the land in view of the provisions of the Hindu Succession Act, 1956.

2. The High Court thought it proper to reverse the decree on the ground that

plaintiff's suit was barred by limitation inasmuch as mutation in favour of the defendants/appellants

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was made as far back as in the year 1948 and the suit was filed in the year 1976 (06.09.1976).

Construing the provisions of Article 58 of the Limitation Act, 1963 to be requiring the plaintiff

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to file the suit within three years and rejecting the claim of belated knowledge of the mutation as made by the appellant-plaintiff, the High Court allowed the second appeal and reversed the decree as noted above.

3. On a consideration of the judgment of the High Court we find that the High Court was perfectly justified in coming to its conclusions, as above. The mutation effected in 1948 was to the extent of 1/3rd share of the two surviving sons of the original owner of the land i.e. Maghar Singh (the plaintiff) and Avatar Singh (defendant No.5) and also the female heirs (Respondent Nos. 1-3) of the pre-deceased son i.e. Gurdial Singh. If the mutation in the year 1948 was in favour of the plaintiff to the extent of 1/3 rd share of the estate of Maghar Singh alongwith his brother (Avtar Singh-defendant No.5) and the defendant-appellants (Respondent Nos.1-3 herein) to the extent of 1/3rd share each we do not see how the plaintiff can claim knowledge of the mutation in the year 1976 on the strength of the application for partition made before the revenue authority by the aforesaid defendant-appellants (respondent Nos.1-3 herein) on 20.08.1976. The plaintiff must be understood to have full knowledge of the mutation at the time when it was made i.e. in the year 1948 in which event the suit filed in the year 1976 for declaration would be hopelessly barred by limitation. The High Court, therefore, is fully justified in coming to its impugned conclusions and in reversing the decree passed by the two Courts in favour of the plaintiff. Consequently, we find no merit in this

