



ਇਹ ਅਪੀਲ ਅਪੀਲਰ ਨੇ (ਦਰਵਾਜ਼ਾ ਨੰਬਰ 193) ਪੇਸ਼ ਕੀਤੀ ਹੈ। ਇਸਦੀ ਮਿਤੀ 08/05/10 ਨੂੰ ਪੇਸ਼ ਕੀਤੀ ਗਈ। ਕੋਲੀ ਅਦਾਲਤ ਦੇ ਦੁਆਰਾ ਪੇਸ਼ ਕੀਤੀ ਗਈ। ਕੋਲੀ ਅਦਾਲਤ ਦੇ ਦੁਆਰਾ ਪੇਸ਼ ਕੀਤੀ ਗਈ। ਕੋਲੀ ਅਦਾਲਤ ਦੇ ਦੁਆਰਾ ਪੇਸ਼ ਕੀਤੀ ਗਈ।

IN THE COURT OF SUB DIVISIONAL MAGISTRATE EXERCISING THE POWES OF A.C. IST GRADE BALACHAUR (SHAHEED BHAGAT SINGH NAGAR)

Ramesh Lal son of Lal Chand, resident of village Pojewal, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar.

.....Appellant

Versus

Durga Dass son of Nathu Ram, resident of village Dangori, Tehsil Garhshankar, District Hoshiarpur.

.....Respondent

APPEAL AGAINST ORDER DATED 29.07.2010 PASSED BY CIRCLE REVENUE OFFICER BALACHAUR VIDE WHICH THE SAID CIRCLE REVENUE OFFICER SANCTIONED MUTATION No.2928 QUA INHERITANCE OF SMT. MANSO WIDOW OF NISHA RAM, RESIDENT OF VILLAGE POJEWAL, TEHSIL BALACHAUR, DISTRICT SHAHEED BHAGAT SINGH NAGAR, IN FAVOUR OF RESPONDENT.

CLAIM IN APPEAL: - TO SET ASIDE THE MUTATION AFORESAID AND TO SANCTION THE SAME IN FAVOUR OF APPELLANT ON THE BASIS OF WILL DATED 09.06.2009, DULY EXECUTED BY SMT. MANSO AFORESAID DURING HER LIFE TIME IN FAVOUR OF APPELLANT.

Sir,

The appellant humbly submits as under: -

- 1 That the appellant is great grandson of Bhoopa, who was the grandfather of husband of Manso now deceased widow of Nisha Ram, resident of village Pojewal, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar.

- 2 That Smt. Manso had died on 26.12.2009 and during her lifetime she used to reside with the appellant and she was served and looked after in all respects by the appellant. Said Smt. Manso due to love and affection towards the appellant and being satisfied with his services rendered towards her executed a WILL Dated 09.06.2009 with her own sweet will while in sound and disposing mind in favour of appellant qua her entire movable and immovable property situated in village Pojewal as well as anywhere else in the country. The said WILL was duly scribed and witnessed by its witnesses and Smt. Manso after understanding and admitting the contents of the same to be correct put her signatures over the same.
- 3 That the appellant is running a dairy farm in village Dhanhas Chandigarh (UT) and while taking the benefit of his absence the respondent, who is brother of Smt. Manso, illegally and fraudulently in connivance with the field revenue staff as well as Circle Revenue Officer succeeded in getting sanctioned the mutation inheritance of Smt. Manso in his favour vide Mutation No.2928 qua her property situated within the revenue estate of village Pojewal, H.B. No.371, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar. Not only this, said Durga Dass is now taking hasty steps to alienate the said property left by Smt. Manso while taking the benefit of wrong mutation aforesaid, sanctioned in his favour.

That the mutation No.2928 aforesaid is liable to be set aside and the mutation qua inheritance is liable to be sanctioned in favour of appellant on following grounds: -

- i) That Smt. Manso was married with Nisha Ram son of Bishna son of Bhondu. Both Bhondu the grandfather of Nisha Ram and Bhoopa i.e. great grandfather of appellant were real brothers. The husband of Smt. Manso was the only son of his father Bishna. Out of the wedlock of Nisha Ram and Smt. Manso no child took birth. Meaning thereby, both Nisha Ram and Manso were issueless. Both Nisha Ram and Manso used to reside with appellant, sometimes at village Pojewal and sometimes at village Dhanhas Chandigarh (UT). Nisha Ram had died intestate in year 2003 and he was succeeded by his wife Smt. Manso, who died testate on 26.12.2009. Even otherwise too, if the field revenue staff as well as Circle Revenue Officer was not having any knowledge regarding the WILL aforesaid of Smt. Manso, then too, the mutation of inheritance of Smt. Manso was not liable to be entered and sanctioned in favour of respondent as per the provisions of Hindu Succession Act, 1956. It is pertinent to mention here that as per Section 15 and 16 of the Hindu Succession Act, 1956, the property of a female Hindu dying intestate shall devolve according to the rules set

out in Section 16. If any property inherited by a female Hindu from her husband or from her father-in-law shall devolve in the absence of any son or daughter including children of any predeceased son or daughter, not upon the other heir refer to in sub section 1 of Section 15 of Hindu Succession Act but upon the heirs of her husband. The appellant as well as some other persons are the heirs of the husband of Smt. Manso in the present circumstances being his agnates Apart from it, the object of Section 15(2) is to ensure that the property left by Hindu female does not loose the real source from where Hindu female inherited the same. Hence apparently it is well established that the mutation under appeal allegedly sanctioned in favour of respondent is absolutely illegal and against the basic law of land.

- ii) That Smt. Manso during her lifetime, due to the services rendered by the appellant towards her and due to love and affection towards the appellant, executed WILL dated 09.06.2009 in favour of appellant qua her entire movable and immovable property.
- iii) That sanctioning of mutation No.2928 came into the knowledge of appellant when he visited the Halqua Patwari to get entered the mutation of inheritance of Smt. Manso on the basis of WILL aforesaid duly executed by her in favour

of the appellant and then the appellant was astonished to know regarding the sanctioning of alleged mutation under appeal. Thereafter, the appellant got the copy of Mutation No.2928 from the office of Tehsildar Balachaur and thus he came to know regarding the sanctioning of mutation under appeal. Hence the present appeal is well within time.

- 5 That this Hon'ble Court has got jurisdiction to try and decide the present appeal.
- 6 It is, therefore, prayed that the present appeal may please be accepted while setting aside the mutation No.2928 allegedly sanctioned by the Circle Revenue Officer Balachaur and sanction the mutation in favour of appellant on the basis of WILL dated 09.06.2009 duly executed by Smt. Manso during her lifetime in favour of the appellant, which is essential in the interest of law, justice and equity.

VERIFICATION

Verified that the contents contained in the above paras from 1 to 6 of this appeal are true and correct to the best of my knowledge and belief.

PLACE: BALACHAUR

DATED: 07.09.2010

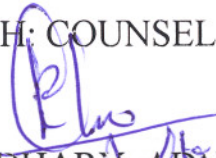
RAMESH LAL
(APPELLANT)

RAMESH LAL
(APPELLANT)

Ramesh

Ramesh

THROUGH: COUNSEL


SH. LALIT CHOUDHARY, ADVOCATE,
BALACHAUR (S.B.S. NAGAR)