

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 507 of 2012(O&M)
Date of decision : August 13, 2015

Jagir Singh and another

..... Appellants

Versus

Punjab State through DC Amritsar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anil Chawla, Advocate
for the appellants.

Mr. M. S. Naryal, Additional Advocate
General, Punjab.

Mr. B. S. Jaswal, Advocate
for respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present appeal is to the judgment and decree dated 28.11.2011 passed by the Additional District Judge whereby the appellant No.2 has been granted 1/4th share of compensation sanctioned by the Government (Human Rights Commission).

Mr. Anil chawla, learned counsel appearing on behalf of the appellants submits that respondent No.3-defendant No.3 was not duly wedded wife of deceased Balwinder Singh, though it was alleged that the marriage was solemnized in the year 1989

thus, the trial court committed illegality in dismissing the suit, whereas the lower appellate court has erred in granting 1/4th share instead of full share. The necessity to file the suit for mandatory injunction arose because the compensation sanctioned by the Government was not disbursed to the appellants-plaintiffs.

Mr. B. S. Jaswal, learned counsel appearing on behalf of respondent No.3-defendant No.3 submits that in an enquiry conducted by the SDM Baba Bakala District Amritsar it has been found that Rajwinder Kaur-respondent-defendant No.3 along with her 2 daughters are legal heirs of deceased Balwinder Singh and the said enquiry report has not been challenged in the suit, therefore whatever relief has been granted the appellant-plaintiff is satisfied with the same.

I have heard learned counsel for the parties and appraised the paper book.

The appellants-plaintiffs sought indulgence of the trial court by filing a suit of mandatory injunction directing to release the amount of compensation on account of death of their son late Balwinder Singh who was killed by the police and the compensation had already been sanctioned by the Government. The trial court dismissed the suit for the reason that the Rajwinder Kaur along with her two daughters were found to be legal heirs of deceased Balwinder Singh, therefore they would be entitled to some share in the same. In appeal, the District Judge modified the decree by holding that Surjit Kaur-appellant No.2-plaintiff No.2 being the mother would also be entitled to relief to the extent of 1/4th share and granted

3/4th share to the widow Rajwinder Kaur and her two daughters.

It is a matter of record that the finding rendered by the SDM, Baba Bakala, District Amritsar with regard to status of legal heirs has not been challenged. No declaration has been sought. In the absence of any challenge, according the status of legal representatives, the appellants-plaintiffs cannot be permitted to allege that defendant No.3 is not legally wedded wife of the deceased.

The finding rendered by the lower appellate court, in my view is fair, legal and equitable. There is no illegality and perversity in the same, much less no substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 13, 2015
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