

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.508 of 2012 (O&M)
Date of Decision.31.08.2015

Nachhattar Singh and others

.....Appellants

Versus

Niranjan Singh and others

.....Respondents

Present: Mr. S.C. Chhabra, Advocate for
Mr. Madan Sandhu, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The plaintiffs claimed the property through Pritam Singh as belonging to them equally with the defendants. The issue of whether the plaintiffs would have any share should be answered by reference to relationship between the parties. Pritam Singh, Bhag Singh and Jeon Singh were brothers. Dhan Kaur was married to Pritam Singh. Pritam Singh died in the year 1937 on the same day of his marriage and Dhan Kaur was married as a second wife to Jeon Singh. Jeon Singh had his 1st wife Harnam Kaur and the plaintiffs are the sons of Jeon Singh through Harnam Kaur. Dhan Kaur, the second wife left behind the defendants as her successors. The issue is whether Pritam Singh's right in the property will be divided equally between the plaintiffs and the defendants. If Pritam Singh died before the Bigamy Prevention Act, 1949 then on the death of Pritam Singh, widow Dhan Kaur will obtain a right to the

property of what was called as the widow's estate under the Widows Right to Property Act, 1937. On the coming to the force of the Hindu Succession Act by virtue of Section 14 (1), the widow's right became enlarged. The property of Pritam Singh did not survive to Jeon Singh but would be taken exclusively by Dhan Kaur as widow's estate and if the property was held by her till the date of coming to the force of the Hindu Succession Act, under Section 14(1), that property would be converted as the absolute property vested in her which would be succeeded only by her children born through her loins through Jeon Singh. No part of property can go to the plaintiffs who are the children of Harnam Kaur, the first wife of Jeon Singh. The court has dismissed the suit but has made certain observations about the customary law which according to the plaintiffs had not been set up in defence. Even without reference to applicability of any particular custom, the right of the defendants as successors of Dhan Kaur would obtain preference over the plaintiffs' claim by virtue of the enactment of Widows Right to Property Act 1937 and the change in law brought through the Hindu Succession Act under Section 14(1).

2. I find no ground for interference in the second appeal although for different reasons as set out above. There is nothing substantial for consideration in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

August 31, 2015
Pankaj*