

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA NO.1730 OF 2013 (O&M)
DATE OF DECISION : 9th FEBRUARY, 2015**

Sameri & another

.... Appellants

Versus

Mahender Singh & Ors

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr.Sanjay Vashisth , Advocate for the appellants.

* * * *

SURINDER GUPTA, J. (ORAL)

CM-4580-C-2013

The application is allowed as prayed for, subject to all just exceptions.

RSA No.1730 of 2013

1. Heard.
2. The appellant filed the suit challenging the gift deed dated 18.06.2001 executed by their father Jhabbu-defendant no.1 regarding suit land in favour of defendant-respondents no.2 and 3 minor sons of Bimla-another daughter of Jhabbu-defendant no.1. The suit was dismissed on three counts: (i) There is no evidence tha the suit land was joint Hindu Family ancestral property in the hands of Jhabbu (ii) There was no pleading that the land in dispute was ancestral property. (iii) The gift deed was executed on 18.06.2001 and a female has become coparcener after the amendment of Hindu Succession Act in the year 2005.

3. Learned counsel for the appellants submits that an application was moved for amendment of the plaint before the first Appellate Court but the same was dismissed. By way of amendment the appellant had sought to add the plea that the suit land was ancestral in the hands of Jhabbu-defendant no.1. In case the amendment had been allowed, the plaintiff could produce some evidence to prove that the land in dispute was joint Hindu family ancestral property in the hands of defendant-respondent no.1.

4. The perusal of order dated 06.11.2012, passed by the first Appellate Court, while dismissing the application, shows that the Court after perusal of the record had found that there is no evidence to show that the suit property was ancestral property. Even in appeal or with application no such document had been placed on record. The appellants have come up with specific plea claiming their share in suit land, but till now they have failed to produce any document supporting their contention that they have any share or concern with the suit property.

5. On perusal of the paper book and judgment of both the Courts below, I find no legal or factual infirmity therein calling for interference. No substantial question of law, requiring determination, arises in this appeal, which has no merit and is accordingly dismissed in limine.

9th February, 2015
'raj'

(SURINDER GUPTA)
JUDGE