

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2872 of 2014(O&M)
Date of decision : December 14 , 2015

Vijay Pathania and another

..... Appellants

Versus

Bir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anand Chibbar, Senior Advocate with
Ms. Riya Bansal, Advocate
for the appellants.

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 appellants-plaintiffs are in Regular Second Appeal against the concurrent finding of fact whereby the suit for declaration claiming right in the estate of Durgi Devi, who died on 12.3.1991, has been declined by both the courts below.

Mr. Anand Chibbar, Senior Advocate assisted by Ms. Riya Bansal, Advocate appearing on behalf of the appellants submits that Durgi Devi was first wife of Sadhu Singh. Charno @ Charan Singh was born out of the loins of Durgi Devi and Sadhu Singh whereas the plaintiffs are born out of loins of Khushia and

Durgi Devi. The dispute revolves around the estate of Charno @ Charan Singh which has devolved upon him on account of death of Durgi Devi. Both the courts below erroneously and perversely declined the declaration and consequential relief on the ground that the plaintiffs have failed to prove the relationship of Durgi Devi and Khushia.

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

In order to prove the relationship between the parties, Section 50 of Indian Evidence Act, 1872 lays down the procedure. In the present case appellants-plaintiffs have not been able to prove that Durgi Devi had married Sadhu Singh, In the absence of same, therefore, they cannot claim any right in the estate of Charno @ Charan Singh who was born out of loins of Durgi Devi and Sadhu Singh. Even one of the witnesses, appeared in the witness box did not offer himself for cross examination, therefore his evidence had not been taken into consideration.

In the absence of any evidence qua relationship, in my view, both the courts below have rightly declined the relief.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 14, 2015
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