

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

**RSA No.4272 of 2011 (O&M)
Date of decision: 29.8.2016**

Sukhpal Singh and others

... Petitioner

Versus

Jasbir Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Sumeet Jain, Advocate, for
Mr.Pankaj Jain, Advocate,
for the appellants.

Mr.M.S.Khaira, Sr. Advocate, with
Mr.R.S.Khaira, Advocate,
for the respondents No.6, 7, 8, 13 and 14.

AMIT RAWAL,J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent findings of fact whereby the claim in the suit for declaration, possession and permanent injunction as owners being successors-in-interest of Basant Kaur widow of Suchet Singh alias Chet Singh allottee of the suit land, has dismissed by both the courts below.

Mr.Jain learning counsel appearing on behalf of the appellant submits that the question raised in the present appeal is whether the property allotted to Basant Kaur being an evacuee can revert back to the defendants in case she died before the commencement of the Act or not. In order to

prove the case brought on record the death certificate issued in 1994, that

Basant Kaur died on 12.11.1956 whereby the information provided to the Patwari that, Basant Kaur died after the commencement of the Act and mutation was effected in their presence therefore, the defendants cannot turn around to allege that she died before the commencement of the Act and, thus, the property owned by Basant Kaur would revert back to the brothers. Basant Kaur was the widow of Suchet Singh, brother of Balwant Singh accordingly defendants being successors-in-interest of Balwant Singh are entitled to succeed.

The Court below have misread and misconstrued the oral and documentary evidence as it had not taken into consideration the death certificate.

Mr.M.S.Khaira, learned senior counsel assisted by Mr.R.S.Khaira submits that in the year 1951 the property was allotted to Basant Kaur wherein it was mentioned that she had already died and it was transferred in favour of successor-in-interest. The plaintiff has miserably failed to prove the death of Basant Kaur and urges this Court to affirm the findings.

I have heard the learned counsel for the parties and appraised the paper-book/record and of the view that Ex.D5 is the Sanad which reveals that Basant Kaur had died on 30.10.1951 and the allotment was transferred in the name of successor-in-interest on 24.1.1957, thus, for all intents and purposes, Basant Kaur died before the commencement of the Hindu Succession Act and, therefore, the plaintiff cannot claim right of inheritance by way of natural succession being reversioners. In my view, the plaintiff has failed to prove the death of Basant Kaur i.e. as to whether she died after the commencement of the Act or not. The death certificate has

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not been proved in accordance with law. There is no compliance of provision of Section 50 of the Indian Evidence Act vis-a-vis death of Basant Kaur. No ground for interference is made out much less no substantial question of law arises for consideration.

Dismissed.

(AMIT RAWAL)
JUDGE

August 29, 2016

Paritosh Kumar

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No