

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

**RSA No.329 of 2016 (O&M)
Date of decision:30.08.2016**

Harpreet Kaur

... Appellant

Vs.

Sukhdeep Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H.R.Nohria, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-plaintiff is aggrieved of the dismissal of the suit seeking possession and permanent injunction in respect of the suit property on the premise that in view of the amendment caused in the Hindu Succession Act in March 2005, the appellant has a right by birth as the daughter had acquired the right by birth in the entire property inherited by Harbhajan Singh from his father Mal Singh.

Mr. H.R.Nohria, learned counsel appearing on behalf of the appellant submits that property at the hands of Harbhajan Singh came from his forefathers. Both the Courts below have abdicated in not referring the documentary evidence, i.e., Ex.PW2/A which shows that Harbhajan Singh inherited the property from Mal Singh, thus, itself is a ground for setting aside the judgments and decrees of the Courts below.

I have heard learned for the appellant and appraised the

judgments and decrees of the Courts below.

As per the 21st Edition of Hindu Mullah's Law, for the purpose of claiming a right in co-parcenary property by birth, a person has to be 4th in generation means that his father inherited the property from 3rd generation in lineage. The document, Ex.PW2/A itself shows that Harbhajan Singh got the property from Mal Singh. No evidence has been brought on record to show that Mal Singh also got the property from Arjan Singh. Had it been so, perhaps there would have been force in the submission of Mr. Nohria, but in the absence of the evidence, I am of the view that appellant has failed to prove the nature and character of the property and therefore, rightly so both the Courts below have declined the relief as sought.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 30, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No