

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

Regular Second Appeal No.630 of 2014 (O&M)

Date of Decision: August 23, 2016.

Raghubir Singh

.....APPELLANT(s).

VERSUS

Surjit Kaur and others

.....RESPONDENT(s).

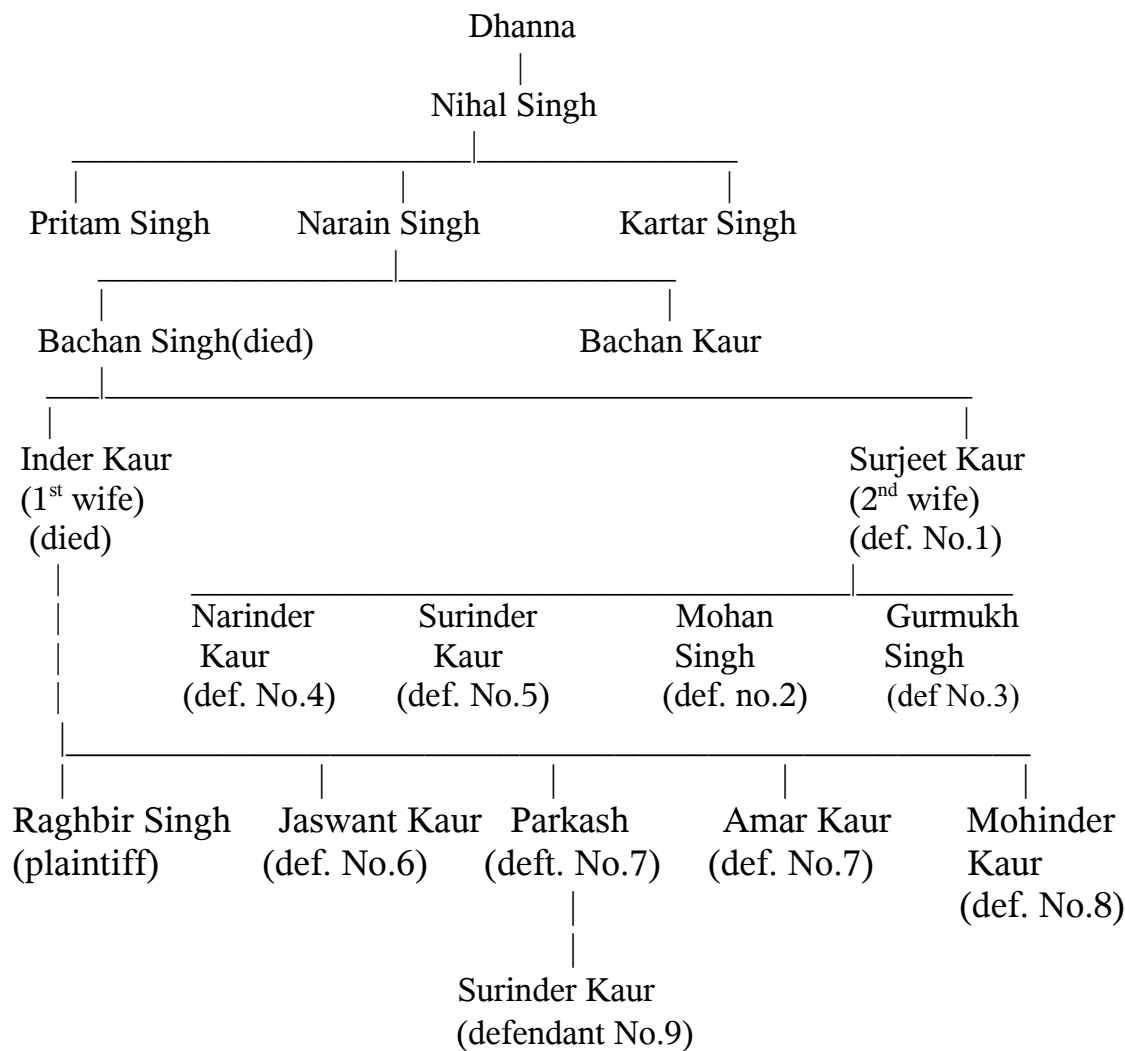
CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Adarsh Jain, Advocate for
Mr. Vishal Aggarwal, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Appellant-plaintiff challenged the judgment and decree dated 15.11.1969 passed in civil suit No.1868 of 1969 in case titled as *Mohan Singh etc. Versus Bachan Singh*, by then learned Sub Judge, Kaithal along with consequent mutation No.1387 and subsequent entry in the revenue record on the basis of said mutation. He also challenged Will dated 10.12.1987 executed by Bachan Singh and consequent mutation No.3649 dated 05.07.2005 entered on the basis of said Will of Bachan Singh as well as subsequent entries in the revenue record and sought decree of joint possession of suit land and for permanent injunction restraining defendants No.1 to 3 from alienating/transferring/mortgaging or creating any charge over the suit land.

2. The pedigree table given below will help to have an understanding regarding the relationship of parties.:-



3. Learned counsel for the appellant-plaintiff argues that plaintiff is son of Bachan Singh. He has challenged the alienations made by Bachan Singh vide decree dated 15.11.1969 and will dated 10.12.1987 on the ground that suit property was joint Hindu family coparcenary property in his hand and being *Karta* of the family, he could not alienate it except for legal necessity. In order to make out that suit land was joint Hindu family coparcenary property, learned counsel for the appellant-plaintiff argues that this property was purchased by Narayan Singh, who gifted the same to Bachan Singh, father of the plaintiff. Even if, the property had come to Bachan Singh through gift, still it is a joint Hindu family coparcenary

property which he was not competent to alienate.

4. Learned Additional Civil Judge considered this argument and observed in para 19 of the judgment as follows:-

“19. It is admitted case of the plaintiff that Narayan Singh, father of Bachan Singh was employee in Military and he purchased the land in village Bhorakh from 1934 to 1944. It means that said Narayan Singh father of Bachan Singh not inherited the suit property from his father Nihal Singh. Moreover, there is no document on the file to prove that Narayan Singh inherited the suit property from his father Nihal Singh. Therefore, the plaintiff has failed to prove that suit property was ancestral or joint Hindu family property in the hands of late Shri Bachan Singh. It has also been proved on behalf of defendants No.1 to 3 that Narayan Singh gifted the purchased property of Bachan Singh vide mutation No.675 and the mutation in this regard is proved on the file as Ex.P15. Thus, the suit property was got by Bachan Singh in gift through Ex.P15 and not by survivorship and therefore, it cannot be said to be ancestral property. Bachan Singh being its absolute owner had every right to dispose the same. For this view, I relied upon authority ***Harnek Singh Vs. Sukhdev Singh 2002 (1) CCC 59 (P&H).***

5. In order to prove that the suit property was joint Hindu family coparcenary property, plaintiff was required to prove that this property was owned at any point of time by his three predecessors-in-interest i.e. his father, grand father and great grand father. As conceded, the suit property was self acquired property of grand father of plaintiff, in which Bachan Singh father of plaintiff, had no vested right during life time of his father.

He got the suit property by way of gift from his father and again the suit

property was self acquired property in the hands of Bachan Singh in which appellant-plaintiff had no vested right. Learned counsel for the appellant-plaintiff could not point out any law in support of his argument that the suit property, which was purchased by grand father of appellant-plaintiff and gifted to his father can be termed as joint Hindu family coparcenary property qua the appellant-plaintiff.

6. No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

August 23, 2016
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

√
Yes/No

Whether Reportable:

√
Yes/No