

CR No.3308 of 2016 (O & M)and
CR No.3315 of 2016 (O & M)

-1-

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

CR No.3308 of 2016(O & M)
Date of decision :15.09.2017

Sohan Singh @ Sema ...Petitioner

Versus

Sahildeep Singh and others ...Respondents

CR No.3315 of 2016 (O & M)

Sohan Singh @ Sema ...Petitioner

Versus

Sahildeep Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. R.D. Bawa, Advocate
for respondent Nos.1 to 3.

ANIL KSHETARPAL, J.(Oral)

These two Revision Petitions are arising out of the interim orders passed by the Court. In one revision petition, the order challenging fixing of interim maintenance payable to widow daughter-in-law, minor grand-son and minor grand-daughter at the rate of Rs.5,000/- per month has been impugned, whereas in the other revision petition challenge is to the order by which defendants were restrained from alienating the property.

Milkha Singh had two sons namely late Sh. Gurmej Singh and Sohan Singh. Milkha Singh is defendant No.1 in the suit whereas defendant No.2 is other son of Milkha Singh namely Sohan Singh and defendant No.3 is wife of Milkha Singh namely Beer Kaur.

Plaintiffs i.e. widowed daughter-in-law, son of the pre-deceased

son and daughter of the pre-deceased son, had filed a suit for declaration that plaintiffs are co-owners in joint possession of the agricultural land as well as residential house. Plaintiffs had also challenged transfer deed executed by Milkha Singh in favour of his son Sohan Singh (petitioner in the present revision petition) dated 31.05.2013.

It was the case of the plaintiffs that the property was Joint Hindu Family Coparcenary property and, therefore, the plaintiffs have a right of maintenance under Section 19 of the Hindu Adoptions and Maintenance Act, 1956.

Learned counsel for the petitioner has submitted that while deciding maintenance, the Courts have not given any prima facie finding that the property is coparcenary. He further submits that as per Sub-Section (2) of Section 19, the liability of father-in-law to maintain widowed daughter-in-law is restricted only to the extent of coparcenary property. Therefore, the Courts have erred in awarding maintenance.

On the other hand, learned counsel for the respondents has submitted that there is no final decision in the case. Plaintiffs are legal heirs of pre-deceased son i.e. Gurmej Singh. It is the moral responsibility of the in-laws family to maintain a widowed daughter-in-law and children of the pre-deceased son.

I have considered the submissions of learned counsel and with their able assistance gone through the record of the case. It is the positive case of the plaintiff that the property is a Joint Hindu Family Coparcenary property. It is not in dispute that Milkha Singh has agricultural land as well as residential house. At this stage, only interim maintenance has been fixed. For deciding interim maintenance, the Court is not finally to opine as to whether the property

issue whether the property is coparcenary or not before deciding application for interim maintenance. Such finding can only be given after the parties have lead their evidence and the Court after appreciating the evidence is in a position to finally decide the issue. There is no doubt that Milkha Singh has a moral responsibility to maintain legal heirs of his pre-deceased son, who unfortunately died on 26.03.2013.

Next submission of learned counsel is that no order could be passed against Sohan Singh, who is elder brother of Gurmej Singh. He has submitted that under the Hindu Adoptions and Maintenance Act, only father-in-law has been made responsible.

I have considered the submission, but in the peculiar facts of the case particularly when Milkha Singh has transferred entire property in favour of Sohan Singh, the other son and the legal heirs of Gurmej Singh have a prior charge of maintenance, the Court below has not committed any error in making an order of payment of maintenance as well as restraining the defendants from alienating the suit property during the pendency of the suit.

In view of the discussion made above, I do not find any good ground to interfere with the orders passed by the trial Court.

Hence, both the Civil Revision petitions are dismissed.

Needless to say that this order is only on the basis of prima facie observation and shall not effect the decision of the Court finally.

15.09.2017
sheetal

(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No