

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

**RSA No.3228 of 1999 (O&M)
Date of Order: 23rd August, 2017**

Smt. Sukhdev Kaur and others

..Appellants

Versus

Darshan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.K.Khunger, Advocate,
for the appellants.

Mr. K.S.Cheema, Advocate,
for the respondents.

ANIL KSHETARPAL, J.

Plaintiffs are in regular second appeal against judgments and decrees passed by the courts below.

Whether property received by a member after partition amongst the family members continues to be a joint Hindu family ancestral property in the hands of individual member or it is individual property of the member?

Bhag Singh was common ancestor of the parties. Bhag Singh has three sons and three daughters apart from a widow Nihal Kaur. Three daughters had filed a suit for declaration and possession with respect to land measuring 19 kanals 13 marlas. Plaintiffs had claimed that they are entitled to relief of possession as the Will set up by the defendants has already been declared to be forged by the Assistant Collector Ist Grade, vide order dated 22.11.988.

Defendant nos. 3 and 4 admitted the claim of the plaintiffs, whereas Defendant no.1(a), (b) and Defendant no.2 filed written statement, contesting the suit. Defendants no.1 and 2 asserted in the written statement that at one point of time family was owner of 109 kanals and 2 marlas of land, which was joint Hindu family coparcenary property. It was stated that Bhag Singh entered into a family settlement in the year 1973 and distributed the property between the sons and wife. It was stated that Bhag Singh was left with only 19 kanals and 13 marlas of land. Defendants further pleaded that the family settlement was given effect to in the revenue record and accordingly entries were made in the jamabandies.

Learned trial Court as well as first appellate Court after appreciating the evidence available on the file, held that the plaintiffs are entitled to 1/28th share each out of the property left by Bhag Singh. The Courts below have recorded this finding after finding that the property in hands of Bhag Singh continues to be an ancestral joint Hindu family coparcenary property.

I have heard counsel for the parties and with their able assistance gone through the judgments passed by the Courts as well as pleadings of the parties.

It is the case of the defendants themselves in the written statement that the property was distributed pursuant to a family settlement arrived at between the parties in the year 1973. Once after distribution some land had fallen to the share of Bhag Singh, such property cannot be construed to be joint Hindu family coparcenary property. Once, there is disruption in the family and parties have decided to distribute the property, which is not disputed, such property cannot be held to be still ancestral

coparcenary property. After family settlement and distribution of property, the property left in the hands of a member of the joint Hindu family would be his individual property.

In view, thereof, Bhag Singh has left behind three sons, three daughters and a widow, therefore, the plaintiffs would be entitled to 1/7th share each.

In view of the discussion made above, the appeal filed by the appellant is allowed and the question of law framed above is answered in favour of the appellant. The judgments and decrees passed by the Courts below are modified to the extent that the plaintiffs would be entitled to 1/7th share each.

23rd August, 2017
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No