

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

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**RSA-1537-2017 (O&M)
Decided on 10.08.2017**

GURINDER KAUR

....APPELLANT

VS

KULDEEP SINGH AND ANR.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Agam Jund Mullanpur, Advocate
for the appellant.

AJAY TEWARI, J.(Oral)

This appeal has been filed against the judgment of the Lower Appellate Court reversing that the trial Court and thereby dismissing the suit filed by the appellant.

The appellant had sued her father in law claiming that whatever property was there in his hand was ancestral property and she being the wife of his predeceased son would inherit the share of her deceased husband. The respondent denied that the property was ancestral. There are other issues but they are not relevant in this case. In order to prove that the property was ancestral in the hands of her father in law the appellant produced excerpt report Ex.P-1. In the first place, the author of the excerpt report was not produced. Secondly, that excerpt report recorded that the father in law of the appellant had got his property from two sources. One part he received by way of transfer deed of his mother and the remaining part he received by way of registered Will of his grandfather. The trial Court held that respondent

No.1 had not been able to prove the registered Will by which he had inherited the property from his grandfather and consequently decreed the suit. The Lower Appellate Court, however, held that the onus to prove that the property was ancestral was on the appellant and as per the High Court Rules and Orders Volume I Chapter-9 Rules (v) & (vi), an excerpt record could not be treated to be evidence unless author thereof was examined. In the present case, the appellant had not examined the author. Consequently, the excerpt report could not have been looked at. Moreover, as mentioned above, even as per the excerpt record produced by the appellant herself the respondent No.1-Kuldeep Singh inherited the property by Will from his grandfather and in these circumstance there was no requirement for the respondent to have proved the Will in his favour since the appellant had failed to discharge the initial onus which was placed upon her to prove that the property was ancestral. Counsel for the appellant has not been able to justify how the excerpt report could be read in evidence in violation of the High Court Rules and Orders Volume I Chapter-9 Rules (v) & (vi) and once that is so, no fault can be found with the judgment of the Lower Appellate Court either on fact or law.

Consequently, the appeal stands dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stand disposed of.

10.08.2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No