

**RA-RS-44-C-2017 IN
RSA-1952-2013 (O&M)
DAVINDER KAUR VS BEERO AND ORS**

Present:- Mr. Harkesh Manuja, Advocate
for the applicant/appellant.

Prayer in this application filed under Order 47 Rule 1 read with Section 151 CPC is for review/re-calling the judgment dated 04.04.2016 passed in RSA No.1952 of 2013.

Heard.

Apart from the fact that the application is barred by limitation having been filed after delay of 362 days, the same is devoid of merit and deserves to be rejected.

The sole submission made by counsel for the applicant/appellant is that as the land in question was ancestral in the hands of Kundan, after his death on 06.05.1978, the respondents/plaintiffs (daughters of Kundan Singh) were left with no right, title or interest in the suit property as they can not claim any right under Section 6 of the Hindu Succession Act, 1956 (in short 'the Act') since Kundan was not alive on the date of amendment of Section 6 of the Act i.e. 09.09.2005.

Counsel for the applicant, on a pointed query raised by the Court, has fairly conceded that a property cannot become co-parcenary on the basis of admission of the parties. He has also not disputed that there is no evidence on record to prove that the suit land was co-parcenary property in the hands of Sh. Kundan Singh. On the contrary, the applicant in the written statement had raised a plea that originally Dhir Singh was owner of the suit property and after his death, his 03

sons namely Kundan Singh, Khazan Singh and Chanan Singh succeeded to the estate of deceased in equal shares and Dhir Singh was common ancestor of the parties. The averments raised by the applicant would negate her plea that the suit land was Joint Hindu Family coparcenary property in the hands of Sh. Kundan Singh. Conversely, the respondents (daughters of Kundan Singh) are the class one heirs of the deceased under the Act, thus, entitled to inherit to the estate of Kundan Singh on the basis of natural succession. This apart, no such factual or legal controversy as has been sought to be raised in review application was raised before the Courts below or this Court.

For the aforesaid reasons, the application fails and is accordingly dismissed.

(REKHA MITTAL)
JUDGE

17.04.2017
yakub