

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

RSA No.4958 of 2001 (O&M)

Date of decision : 15.12.2018

Hanifa

...Appellant

Versus

Yousaf and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Majithia, Sr. Advocate with
Mr. Inderjeet Singh, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court reversing the judgment of the trial Court.

Plaintiff, as a daughter claims 1/8th share in the property left by her father. Both the Courts have found that she is the daughter of late Sh. Ballu, common ancestor of the parties. The defendants contested the suit and pleaded that there is custom that only male member would inherit the property.

Learned trial Court on appreciation of the evidence found that the custom is not proved and the parties are governed by personal muslim law. According to which, the plaintiff is entitled to 1/8th share. However, learned First Appellate Court has reversed the judgment passed by the trial

Court. It may be noted that the parties to the suit are muslim belonging to Kamboj caste in Malerkotla town. The issue, whether the muslim belonging to Kamboj caste of Malerkotla town are governed by the General Rule governing the inheritance or by customary law, has been decided by the Division Bench of this Court in the case of **Ali Mohammad Vs. Mst. Karima, 1992(2) PLR 136.**

Learned counsel appearing on behalf of the respondents has not been appearing for the last few hearings. On 27.11.2018, noticing the absence of the learned counsel for the respondents, Office was directed to inform. However, today, once again the case has been called twice but the counsel is not present.

Keeping in view the binding precedent on the aforesaid subject, the judgment of the First Appellate Court cannot be sustained.

Regular Second Appeal is allowed. The judgment of the trial Court is restored.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

15.12.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No