

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

106

RSA-2171-2009 (O & M)
Date of Decision:26.10.2018

Piari and another

...Appellants

Versus

Piari and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikram Singh, Advocate and
Mr. Abhinav Sood, Advocate
for the appellants.

Mr. D.S. Nain, Advocate
for respondents No.3, 5 to 10.

ANIL KSHETARPAL, J.(Oral)

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the Courts below dismissing the suit filed by the plaintiffs for declaration challenging the validity of a civil Court decree dated 26.11.1979.

Naurang had six sons. Bhag Singh was husband of plaintiff No.1 and father of plaintiff No.2. He died on 09.04.1970 during the life time of Naurang, his father. It has concurrently been found by both the Courts below that plaintiff No.1-Piari widow of Bhag Singh married with Sultan Singh, another son of Naurang, (brother of her husband). On the basis of a family settlement, a judgment and decree was passed on 26.11.1979 acknowledging the distribution of the property of the family. This decree has been challenged after a period of 20 years by filing a suit. In the plaint, Smt. Piari did not disclose that she was re-married with Sultan, however, in

replication this fact was admitted.

Both the Courts on appreciation of evidence have found that property is not proved to be coparcenary or ancestral. Still further, Sultan Singh is beneficiary under the civil Court decree, who is husband of Piari, plaintiff No.1. Therefore, plaintiff No.1 cannot claim that she has no knowledge of the decree passed on the basis of acknowledging a family settlement. Through a family settlement, the property was distributed in favour of family members and dispute between the parties was put to rest, which is sought to be re-opened after a period of 20 years.

In view of the aforesaid, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular second appeal is dismissed.

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

26.10.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No