

In the High Court of Punjab and Haryana at Chandigarh

**RSA No. 1057 of 2016
Date of Decision: 17.9.2018**

Sumitra and another

---Appellants

versus

Mange Ram and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Deepender Ahlawat, Advocate
for the appellants**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration and consequential relief of permanent injunction filed by the appellants-plaintiffs, daughters of late Dharam Singh was dismissed by the trial court on 9.9.2014 and appeal preferred by unsuccessful plaintiffs-appellants did not find favour with the District Judge, Jhajjar.

The present lis pertains to estate left behind by Sh. Chander Singh, brother of late Dharam Singh, father of the appellants-plaintiffs. As per case set up by the plaintiffs-appellants, Chander Singh was unmarried and issueless. He went missing in the year 1952. After death of Chander Singh, Dharam Singh their father became owner in possession of land owned by said Chander Singh. They have challenged entitlement of defendants No. 1 and 2 and further challenge has been laid against sale

deed dated 26.10.2005 executed by defendants No. 1 and 2 in favour of defendants No. 3 and 4. The plaintiffs have claimed right to the suit property through their father Sh. Dharam Singh.

On a pointed query, counsel would fairly concede that no proceedings were initiated in a Court of Law to seek declaration with regard to civil death of Sh. Chander Singh during the life time of Sh. Dharam Singh. Once Chander Singh was not declared to be civilly dead, Dharam Singh was not entitled to inherit to the estate of deceased Chander Singh, in view of the provisions of Hindu Succession Act, 1956. As Dharam Singh never inherited to Sh. Chander Singh during his life time, the appellants-plaintiffs cannot claim any right in the suit property through their father Dharam Singh who never became owner of the suit property being successor in interest of Sh. Chander Singh. That being so, I do not find an error much less perversity in the consistent findings recorded by the courts negating plea of the appellants that they are the owners in possession of suit land to the extent of half share which was previously owned by their paternal uncle Sh. Chander Singh.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

17.9.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No