

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

RSA No.1705 of 2016 (O&M)

Date of decision:30.10.2018

Subhash Chand

... Appellant

Vs.

Shanti

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rishab Lohan, Advocate for
Mr. R.N.Lohan, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, suit of the respondent-plaintiff claiming declaration qua suit property, has been decreed.

The sole contention of the appellant-defendant is that plaintiff-Shanti could not prove herself to be wife of Sher Singh son of Gurdyal as the appellant-defendant is also son of Gurdyal.

The case set up by the plaintiff was that Shanti performed a kareva marriage on the demise of her first husband Hukam Singh. The mutation in respect of the suit property effected in the year 2008 was challenged. The suit was not maintainable as no relief of possession was sought. The succession certificate Ex.P20 and order dated 17.04.2010, Ex.P18 relied upon by the Courts below were passed at the back of the defendant. All these factors have not been adverted to, therefore, there is

gross illegality and perversity in the impugned judgments and decrees.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, the moment, the appellant-defendant came to know about succession certificate, Ex.P20 passed in favour of the plaintiff being widow of Sher Singh son of Gurdya1, there was option to challenge the same in an independent proceedings by seeking leave. No other evidence has been placed on record to belie the status of the plaintiff being widow of Sher Singh. In such circumstances, the Courts below had no occasion but to grant the declaration.

In view of what has been observed above, I do not find any illegality and perversity in the impugned judgments and decrees which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for determination of the appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 30, 2018
savita

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