

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

**RSA No.3260 of 2016 (O&M)
Date of Decision.03.12.2018**

Shamsher Singh

...Appellant

Vs

Chanderkala and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Virendra Rana, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-defendant No.1 is in regular second appeal against the decretal of the suit by the trial Court and affirmed in appeal at the instance of his sister Chanderkala by laying challenge to the decree dated 7.11.2009 rendered in suit titled as “Balram and others vs. Chajju Singh and others” as she was entitled to 1/48th share in respect of estate of her father.

Learned counsel appearing on behalf of appellant-defendant No.1 submitted that Dharampal was co-owner with Balram and others. Balram asserted more right than their father Dharampal, resulting into litigation. A counter-claim was set up which was contested by appellant-defendant No.1, Shamsher Singh wherein he accorded share of Dharampal. The decree of 2009 could not have been assailed in the suit filed in 2011.

I am afraid aforementioned argument of Mr.Rana is not sustainable, for, it is not the case of the appellant-defendant No.1 that Dharampal had not died intestate. In such circumstances, succession opened on his death and all the legal heirs would have had right to

succeed in equal proportion. This is what has been noticed by the Courts below, therefore, the decree dated 07.11.2009 according entire ownership vis-a-vis estate of Dharampal in favour of Shamsheer Singh was not correct finding.

In for the aforementioned observations, I do not subscribe to the arguments raised by counsel for the appellant in order to form a different opinion than the one already arrived at, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 03, 2018
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No