

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

**RSA-3404-2016(O&M)
Date of decision : 14.11.2018**

**Raghubir Singh deceased through LRs Darshna Devi
and others Appellants**

versus

Balbir Singh through LRs Urmil Devi and others Respondents

**CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S.Bedi, Advocate for the appellants.

AMIT RAWAL, J. (ORAL)

CM No. 8967-C of 2016

This is an application seeking condonation of delay of 2 days in filing the accompanying appeal.

For the reasons set out in the application, that is duly supported by an affidavit, the delay of 2 days in filing the appeal is condoned.

CM stands disposed of.

CM Nos. 8966-C & 8968-C of 2016

Applications are allowed as prayed for.

RSA-3404-2016

Plaintiff Raghubir Singh (since deceased) son of Roshan Lal, being represented by his LRs, filed a suit claiming declaration for setting aside judgment and decree dated 06.10.1990 suffered by Roshan Lal, his

father in favour of his two other sons namely Balbir Singh and Vijay Kumar, which was dismissed by the trial Court and the appeal filed against the same was also dismissed by the Lower Appellate Court.

The pith and substance of the suit of the plaintiff was that land in dispute at the hands of Roshan Lal was ancestral. In order to lend credence and support to the averments, plaintiff brought on record Urdu document and its translation i.e. Jamabandi to show that Roshan Lal along with his brothers had inherited the property from their father Bulaki Mal.

Mr.B.S.Bedi, learned counsel appearing on behalf of the appellants submitted that the Lower Appellate Court being the last Court of fact and law abdicated in not referring to the Jamabandi in vernacular (Urdu) and its translation but the fact of the matter is that Roshan Lal had inherited the property from his father Bhulaki Mal and, therefore, at the hands of Raghubir Singh being grandson would acquire the status of ancestral thus had a right by birth. The decree was without legal necessity which could not have been suffered by Roshan Lal.

I am afraid this argument of learned counsel is not sustainable, for, no pedigree table or revenue excerpts has been brought on record to establish that plaintiff-appellant was fourth generation in lineage. His right would have accrued in the property, had it been proved that Raghubir Singh had inherited the same from his great grand father which remained a mystery. In such circumstances the Court had no other option but to decline the relief.

Arguments of learned counsel have not been able to bring the case within the realm of illegality and perversity enabling this Court to form

a different opinion other than the one arrived at by the Courts below. No

ground for interference is made out.

Appeal is dismissed.

(AMIT RAWAL)
JUDGE

14.11.2018
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No