

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

**RSA No.4524 of 2016 (O&M)
Date of Decision.04.12.2018**

Rekha Rani

...Appellant

Vs

Darshan Lal and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Raj Kumar Kakkar, Advocate
for the appellant.

-:-

AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration by laying challenge to the decree dated 19.03.1996 *vis-a-vis* estate of Kashmiri Lal against defendants i.e. other children of Kashmiri Lal and uncles i.e. brothers of father of plaintiff.

It was alleged that plaintiff is the daughter of Om Parkash whereas defendants are brothers of Om Parkash and being legal heir, had right by birth. Decree dated 19.03.1996 executed by Kashmiri Lal in favour of defendants without legal necessity had no validity in the eyes of law.

The defendants opposed the nature and character of the property being ancestral and alleged to be self-acquired property.

Mr. R.K. Kakkar, learned counsel appearing on behalf of the appellant submitted that Kashmiri Lal died on 25.10.2005 i.e. post amendment in Section 6 of the Hindu Succession Act and therefore, plaintiff had right by birth in the property being coparcenary.

I am afraid aforementioned argument of Mr. Kakkar is

not sustainable as no revenue excerpt had been placed on record to form an opinion that plaintiff is 4th generation in lineage. Kashmiri Lal was her grand father and therefore, she was 3rd generation in lineage. As per para 221 of 21st Edition of Mulla Hindu Law, 4th generation in lineage has right by birth. There would have been force in the submission, had the plaintiff been 4th generation in lineage as the succession opened after the demise of Kashmiri Lal post amendment but in the absence of such explanation, finding of fact and law cannot be faulted with.

I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, 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 04, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No