

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

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**CM-13270-C-2016 in/and
RSA-5112-2016 (O&M)
Date of Decision : 04.09.2018**

Niranjan Singh and others

..... Appellants

Versus

Raksha Devi @ Nirmala Devi and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Karan Singh, Advocate
for the appellants.

AJAY TEWARI, J. (ORAL)

CM-13270-C-2016

For the reasons recorded, the application is allowed. Delay of 17 days in filing the appeal is condoned.

RSA-5112-2016 (O&M)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit filed by the respondents.

The admitted facts are that the appellants and Maya Ram were brothers and shareholders in the property. It is also admitted by the appellants that respondent No.2 was married to Maya Ram.

The case of the respondents was that respondent No.1 was the daughter of Maya Ram and she and the respondent No.2 had inherited the estate of Maya Ram after his death and consequently they sought declaration that they were joint owners in possession of land in dispute alongwith the appellants.

The case of the appellants was that after the death of Maya Ram the respondent No.2 got married to one Tara Chand and the respondent No.1 was actually the daughter of Tara Chand. Their further plea was that the suit was filed 38 years after the death of Maya Ram and was thus barred by limitation.

Both the courts below having decreed the suit the appellants are before this Court. To my mind, the appeal must fail. The appellants have not been able to deny that the respondent No.2 was the wife of Maya Ram at one time. Even if the respondent No.1 is the daughter of Tara Chand the fact remain that on the death of Maya Ram the respondent No.2 being his widow would have inherited his estate to the exclusion of the appellants (his brothers). Once she had superior title to the entire property the appellants are nobody to challenge the parentage of respondent No.1. As regards the limitation, it is now beyond the pale of any controversy that a suit based on title cannot be dismissed on the ground of limitation.

Consequently, the appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 04, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No