

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

**RSA No.6295 of 2016 (O&M)
Date of decision:20.11.2018**

Rajesh and others

... Appellants

Vs.

Sumitra and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Harkesh Manuja, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-defendants have not been successful in defending suit for declaration with consequential relief of permanent injunction on the basis of release deed dated 09.06.2009 registered by defendant no.6-Shanker son of Ram Sarup in favour of defendants No.1 to 5.

The plaintiffs are none-else but daughters who alleged that by virtue of amendment caused in Section 6 of Hindu Succession Act, w.e.f. March 2005 the daughters had acquired the right, in the ancestral property, by birth, thus, the release deed without taking into consideration their interest or legal necessity, could not have been executed by Shanker. The trial Court on the basis of evidence decreed the suit and the appeal taken before the Lower Appellate Court also met with the same fate.

Mr. Harkesh Manuja, learned counsel appearing on behalf of the appellant-defendants submitted that plaintiffs are not 4th generation in

lineage. It was Shanker, who has to be 4th generation and therefore, could claim the right in the property. As per intkab, Ex.PW2/1, the property was owned by Har Chand and on his demise, inherited by Ram Sarup, who is the father of Shanker. Shanker was alive at the time of filing of suit and thereafter, he died, thus, suit during his life time was also not maintainable. The interest of married daughters have already been protected and taken care of at the time of marriage and therefore, they could not lay any claim.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, the plaintiffs were 4th generation in lineage. Any release deed in respect of suit property executed by Karta, who proved to be ancestor can always be challenged during his life time. PW2-Krishan Kumar, had brought on record the document, Ex.PW2/A which is in accordance with the High Court Rules and Regulations, upheld by this Court in **Banta Singh and others vs. Phuman Singh and others 1972 PLJ 275.**

No fault can be found with the findings of facts and law arrived at by the Courts below on the basis of documentary evidence as character and nature of the property has cogently been found to be ancestral. The release deed was executed after the amendment in Section 6 of Hindu Succession Act.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no

substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 20, 2018
savita

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