

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 6551 of 2016

Date of decision : November 15, 2018

Smt. Kanta Devi and others

.....Appellants

Versus

Sanjeev Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sandeep Kotla, Advocate
for the appellants.

AMIT RAWAL, J (oral).

The appellants-plaintiffs had not been successful before the court below in seeking declaration laying challenge to the Will dated 3.6.1981 of Prabhu and mutation No. 3444 entered in favour of the defendants. Plaintiffs-daughters of Prabhu asserted that Prabhu could not execute the will as the suit property was ancestral property and they had right by birth.

The short point involved is that the defendants did not lead any evidence before the court below enabling them to succeed in the suit nor any pleading was made before the lower appellate court. However during the pendency of the appeal an application to fill up the lacuna under Order 41 Rule 27 CPC was filed to establish nature and character of the property.

Before the aforementioned facts could be looked into, this Court raised a specific query to apprise about the death of Prabhu who died on 15.1.1990. It is pertinent to mention here that right in the co-

parcenary property accrued to the daughters only when the amendment in Section 6 of the Hindu Succession Act, 1956 was made in the month of March, 2005. Therefore, the additional evidence would be meaningless. Infact the daughters did not have right to challenge the Will of Prabhu.

In view of what has been observed above, no ground for interference is made out. The appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

November 15, 2018

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No