

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

RSA No.1104 of 2017 (O&M)

Date of Order: 22.11.2018

Dayanand (deceased) through his LRs and ors

....Appellants

Versus

Balkar Singh and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

AMIT RAWAL, J (ORAL)

Appellant-plaintiff has not been successful in claiming declaration regarding estate of Kidara being collateral.

It was alleged that said Kidara died issueless and unmarried and therefore the property was liable to be reverted to the appellants being brothers. The cause of action arose only when the mutation bearing No.744 dated 29.5.2006 (Ex.P.10) was sanctioned in favour of the defendants as Kishani alleged wife of Kidara, who after his demise had performed marriage with one Gurdyal.

Learned counsel for the appellants submitted that the appellants in support of their pleadings brought on record Ex.P.1 to Ex.P.10 whereas on the other hand, the defendants produced various other documents like voter card and writing dated 14.1.1975 which was in vernacular language i.e Urdu and the same on being translated into hindi, were never proved, thus, defendants have miserably failed to prove that Kishani was wife of Kidara.

I am afraid that this argument is not sustainable, for, Ex.D1

voter list, duly established status of defendant No.2 as wife of Kidara. Even if she had performed kareva marriage, her right of devolution on marriage cannot be taken away as against the right of the plaintiffs, who are collateral, therefore, existence of Ex.D2 pales into insignificance. Even, Ex.P.1 regarding the birth of Balkar has not been proved.

No perversity or irregularity could be found with the well reasoned concurrent findings of both the courts below.

Dismissed.

November 22, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No