

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

RSA No. 1628 of 2018 (O&M)
Date of decision : March 22, 2018

Santosh Devi and others

..... Appellants

v.

Smt. Kailasho Devi

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Veneet Chaudhary, Advocate
for the appellants.

Ajay Tewari, J (Oral)

C.M No.4376 C of 2018

For the reasons recorded, this application is allowed and delay
of 1049 days in refiling the appeal is condoned.

RSA No.1628 of 2018

This appeal has been filed against the concurrent judgments of
the Courts below dismissing the suit filed by the appellants.

The appellants filed the instant suit against their deceased
brother's wife claiming that a decree which was obtained by their deceased
brother from their deceased father 30 years ago was vitiated by fraud. Both
the Courts below held that the appellants have not been able to prove that
the decree was obtained by the deceased brother of the appellants from his
deceased father by fraud.

The only contention of counsel for the appellants is that in the plaint one averment which had been made was that the respondent was not the legally wedded wife of their deceased brother and in reply thereto the respondent had not even given the date of the marriage.

In my opinion, this fact is hardly germane. Had the appellants claimed succession from their deceased brother, then the above fact would have been relevant but once they are challenging the decree made in favour of their deceased brother, when and in what circumstances the respondent married him had hardly any bearing on the matter. No other point has been raised/averred by the appellants. Consequently, finding no merit this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

March 22, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No