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

**RSA No. 3055 of 2018 (O&M)
Date of Decision: 14.05.2018**

Swaran Kaur & others

...Appellants

Versus

Paramjit Kaur & another

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Bikramjit Aroua, Advocate
for the appellants.

GURVINDER SINGH GILL, J. (ORAL)

The appellants/plaintiffs are aggrieved against the judgment and decree dated 17.04.2018 passed by the Additional District Judge, Tarn Taran, whereby dismissal of their suit for declaration regarding entitlement of 1/5th shares each in the amount of ₹ 8,00,000/- lying deposited in Allahabad Bank, Branch Rayya in the name of Gurlal Singh has been upheld.

As per plaint, Gurlal Singh died on 26.06.2015. Plaintiff No.1- Swaran Kaur is stated to be widow of Gurlal Singh, plaintiff Nos. 2 & 3 are sons and plaintiff No.4 is his daughter, whereas the respondent-defendant Paramjit Kaur is stated to be concubine of deceased Gurlal Singh. It is the

case of the appellants-plaintiffs that Gurlal Singh had opened a joint

account along with Paramjit Kaur in Allahabad Bank and had deposited an amount of ₹ 8,00,000/-, in the said joint account during his life time and that after his death the plaintiffs being natural heirs of deceased Gurlal Singh are entitled to the extent of 1/5th share each.

The suit was contested by the defendants who claimed that she was legally wedded wife of deceased Gurlal Singh. In order to substantiate her case she relied upon oral as well as documentary evidence led by in the shape of passport, ration card, copy of statement of bank account etc. wherein she is reflected as wife of Gurlal Singh.

The learned lower Court dismissed the suit of plaintiffs on the ground that the account in question is a joint account and as per operating instructions the same can be operated as “either or survivor” and that after death of Gurlal Singh, it is the respondent-Paramjit Kaur who is entitled to operate the aforesaid account.

The said findings were affirmed by the lower Appellate Court vide impugned judgment dated 17.04.2018 which has been challenged by way of filing present appeal.

Learned counsel for the appellants while assailing impugned judgment has relied upon judgment of Privy Council reported as “ **Guran Ditta vs. T.Ram Ditta, AIR 1928, Privy Council 172**”, wherein, despite the fact that the amount in question had been deposited in a joint account, it was held that the surviving account holder has a trust especially in the Indian Law where social relationships are of an essentially different character viz-a-viz English law and that no presumption could be drawn that the said amount deposited in joint account was to be treated as a gift consequent upon death of the husband.

Learned counsel also pressed into service a judgment of Bombay High Court rendered in “Krushanadas Nagindas Bhate vs. Bhawwandas Ranchhoddas and others 1976 AIR (Bombay) 153” and of Kerala High Court in “Muhammed vs. Parukutty Amma 1995 ISJ (Banking) 155”, wherein, aforesaid judgment of Privy Council has been relied upon.

I have considered the aforesaid submissions and have also perused the judgment relied upon the learned counsel for the appellants. The present case is based on peculiar facts inasmuch as it is a case where deceased Gurlal Singh had contracted a second marriage and was apparently residing with second wife since a long period of time which would be evident from the fact that second wife had been issued a passport and there was a ration card wherein, defendant Paramjit Kaur is shown to be wife of Gurlal Singh. In these circumstances, the fact that Gurlal Singh chose to deposit the amount in question in joint account with his second wife and not with his first wife and his children would be indicative of his intention that the said amount was meant to be used by his second wife to the exclusion of his first wife. The question of validity of second marriage is not required to be gone into in these circumstances especially when the plaintiffs themselves admitted that husband was staying with Paramjit Kaur who is alleged to concubine.

In view of the aforesaid factual position especially the fact that Gurlal Singh had chosen to open a joint account with Parmajit Kaur with whom he was residing since long to the exclusion of his wife and children and the operating instructions for the said account were “either or survivor”, the intention of Gurlal Singh to exclude his wife and children is evident. I

do not find any infirmity in the impugned judgment so as to warrant interference the same. There is no merit in the appeal and same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

May 14, 2018
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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No