

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

RSA No. 3612 of 2018 (O&M)
Date of decision : August 06, 2018

Daljit Singh

..... Appellant

v.

Major Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Rajinder Sharma, Advocate
for the appellant.

Ajay Tewari, J (Oral)

C.M No.9409 C of 2018

For the reasons recorded, this application is allowed and delay
of 27 days in refiling the appeal is condoned.

RSA No.3612 of 2018

This appeal has been filed against the judgment of the lower
appellate Court reversing that of the trial Court and thereby decreeing a suit
filed by the respondents. Both the respondents had filed a suit claiming
that they were the brother and sister of the appellant and were entitled to
inherit the property of their late father in equal shares. In the written
statement, the plea taken by the appellant was that respondent No.1 was not
entitled to inherit any thing from the property of their father because he had
been adopted by his maternal uncle. As regards respondent No.2, it was the

case of the appellant that she was not entitled to inherit the property because she had been married. It is noteworthy that the appellant had not denied that the respondents were in fact the children of their father and were his brother and sister.

The trial Court held that the respondents had not proved that they were entitled to inherit the estate of their late father since they did not present the original documents but only produced photocopies thereof. The lower appellate Court reversed the finding by holding that once the appellant had not denied the paternity of the respondents, onus shifted upon him to prove that they were not entitled to inherit the property of their late father, and since he led no evidence, allowed the appeal.

Counsel for the appellant has not been able to show that how and why the finding of the lower appellate Court is wrong. Once the appellant had admitted that the respondents were his brother and sister, then any special circumstance which dis-entitled them to inherit the property had to be pleaded and proved. Admittedly, the appellant did not lead any such evidence. In these circumstances, no fault can be found with the findings of the lower appellate Court. 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.

(AJAY TEWARI)
JUDGE

August 06, 2018
'kk'

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No