

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

RSA No. 4884 of 2018 (O&M)
Date of decision : October 29, 2018

Nirvail Singh and another

..... Appellants

v.

Lakha Singh, dead, through LRs & others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. SS Siao, Advocate
for the appellants.

Ajay Tewari, J (Oral)

C.M No.13220 C of 2018

For the reasons recorded, this application is allowed and delay
of 41 days in refiling the appeal is condoned.

RSA No.4884 of 2018

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

The case of the appellants was that their father had a first
cousin called Swaran Singh who died as an orphan at the age of 15 years
and at that time their father was the only heir of Swaran Singh and he
inherited his property. After the death of their father, the appellants were
owners in possession of the suit property and the respondents had no
connection with the same.

The case of the respondents, on the other hand, was that Swaran Singh never died at the age of 15 years as an orphan; he was married, and that they were his heirs.

Both the Courts below held that the appellants did not lead any evidence to prove that Swaran Singh had died as an orphan at the age of 15 and even their mother who may have known Swaran Singh was not produced in the evidence, and consequently dismissed the suit.

Counsel for the appellants has argued that the evidence led by the respondents was shady. In my opinion, this argument will not avail. It was for the plaintiffs/appellants to have first proved their case and once they were not able to prove that Swaran Singh died as an orphan at the age of 15 years without leaving any issue, their suit had to be dismissed. 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.

October 29, 2018
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(AJAY TEWARI)
JUDGE

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