

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.A. 16-CII of 2018 in
CR No. 7342 of 2016
Date of decision:- 27.03.2018

Himmat Singh

...Petitioner

Versus

Late Shri Hanuwant Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Dr. Anmol R. Sidhu, Sr. Advocate, with
Mr. Pavit Maitewal and Mr. Mahir Sood, Advocates,
for the applicant.

Mr. Vikas Bahl, Sr. Advocate, with
Mr. Gaurav Chopra, Advocate,
for respondent No.1.

RITU BAHRI J. (Oral)

CM No. 1636-CII of 2018

For the reasons mentioned in the application, same is allowed and
delay of 18 days in filing the present review application is condoned.

Accordingly, present application is disposed of.

Main Case

This is an application filed by learned Counsel for the petitioner-
applicant under Order 47 Rule 1 read with Section 151 of the Code of Civil
Procedure 1908, for the review of order dated 24.08.2017 (Annexure RA-1)
passed by this Court in Civil Revision No. 7342 of 2016 titled as ***Himmat
Singh Versus Hanuwant Singh and Others*** whereby this court dismissed
the civil revision petition.

Learned Counsel for the applicant-petitioner argued that the 26th Amendment of 1971 with respect to Article 363-A of the Constitution has not been examined while dismissing this revision and after the 26th Amendment the one ceased to be recognized to be the Ruler of Nabha State, hence law of Primogeniture was not applicable at all, In the facts of the present case after the death of late Partap Singh in the year 1995, the inheritance would be governed by the Hindu Succession Act, 1956 and as per the 26th Amendment, the inheritance younger son cannot be claimed to right of inheritance.

A perusal of the Article 363 A of the Constitution shows that :

(a) the prince, chief or other person who, at any time before the commencement of the Constitution (26th amendment) Act, 1971, was recognized by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognized by the President as the successor of such Ruler shall, on and from such commencement, cease to be recognized as such Ruler or the successor of such Ruler;

(b) on an from the commencement of the Constitution (26th Amendment), Act, 1971, privy purse is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished and accordingly the Ruler or, as the case may be, the successor of such Ruler, referred to in Clause (a) or any other person shall not be paid any sum as privy

purse.

The above said Article clarifies that any ruler before the commencement of the Act would be ceased to be a Ruler. This would mean that for the purpose of ruling the state he would ceased to be a ruler in any independent India and at the same time all the privi purse which were extended to last State/Ruler would cease to, will not be paid any sum as privi purse.

Hence by the above said amendment, no ruler would be recognized for the purpose of permission of privi purse. As the properties of Maharaja Pratap Singh falls in the exception as carved out in Section 5(ii) of the Hindu Succession Act which states that the Act not applied to any estate which descends to a single heir by the terms of any convenient or agreement entered into by the Ruler of any Indian State with the Government of India or by terms of any enactment passed before the commencement of this Act. Reliance has been made to a judgment of Hon'ble Supreme Court in Case of **His highness Maharaja Pratap Singh Vs. Her Highness Maharani Sarojni Devi reported in 1994 (Supp) 1 SCC 734** wherein it has been held that the rule of Primogeniture was applicable in the Princely state of Nabha and this judgment has been subsequently followed by in Civil Suit No. 75/1975 in RFA No. 44 of 2009 decided on 16.01.2014.

Hence this court is of the view that 26th Amendment in the Constitution is not a ground to review the order dated 24.08.2017 passed by this Court. Accordingly, present review application stands dismissed.

27.03.2018

Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable : No