

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

**RSA No.1358 of 1988 (O&M)
Date of Decision.05.04.2019**

Thakur Singh

...Appellant

Vs

Udhmi Devi (since deceased) through LR's and others

..Respondents

2. RSA No.2423 of 2010 (O&M)

Roshni Devi and others

...Appellants

Vs

Tara Devi and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. K.S. Dadwal, Advocate
for the appellant in RSA No.2423 of 2010.

Mr. Jagdish Manchanda, Advocate
for the appellant in RSA No.1358 of 1988.

Mr. Satbir Rathore, Advocate
for respondents No.1 to 7 and 9 in RSA No.2423 of
2010.

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AMIT RAWAL J. (ORAL)

This order of mine shall dispose of two regular second appeals bearing No.1358 of 1988 and 2423 of 2010 arising out of decision rendered in suit titled as '*Smt. Udhmi Devi vs. Prem Singh and others*' and '*Roshni Devi and others Vs. Prem Singh (now deceased) through LR's and others*' respectively.

Jai Dayal son of Bhollu Ram was the owner of the property. He had left behind widow, two sons and three daughters.

Jai Dayal before this death executed a Will on 20.12.1961 in favour of Udhmi, Prem Singh and Thakur Singh. On 13.07.1962 he died. Prem Singh denied execution of the Will in favour of Udhmi. In mutation proceedings, sisters gave no objection to the wish of the father expressed in the Will and consented for mutation of property in favour of brothers i.e. Prem Singh and Thakur Singh. However, on 4.6.1985, Udhmi filed the suit and sought declaration of entire property by virtue of Will in her favour in terms of the provisions of Section 14(2) of the Hindu Succession Act. The suit was decreed on 05.06.1987 whereby she was granted 1/3rd share. She was not satisfied with the judgment and decree rendered by the trial court, thus, filed appeal bearing No.84 of 1987 whereas Prem Singh and Thakur Singh filed separate appeals bearings No.79 and 80 of 1987 respectively.

Mr. K.S. Dadwal, learned counsel representing the daughters submitted that he has received instructions from his clients and they are ready to abide by their undertaking and consent given before the Revenue Court regarding mutation of inheritance of Jai Dayal in favour of brothers Prem Singh and Thakur Singh in equal proportion.

This fact is not denied by Mr. Jagdish Manchanda and Mr. Satbir Rathore, who are representing Thakur Singh and legal representatives of Prem Singh. In other words, they agree that since Udhmi had also died on 6.6.1996, her estate may also be devolved upon Thakur Singh and legal representatives of Prem Singh and Will executed in favour Kaushalya be set aside.

In view of statements suffered by learned counsel for the parties, suit of the plaintiffs is dismissed and the mutation of inheritance of Jai Dayal in favour of both brothers i.e. Thakur Singh and Prem Singh regarding entire property is upheld.

In view of such circumstances, appeal bearing No.1358 of 1988 is allowed and the appeal bearing No.2423 of 2010 is dismissed as having become infructuous.

(AMIT RAWAL)
JUDGE

April 05, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No