

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.727 of 2007 (O&M)
Date of Decision:11.03.2019

Jawahar Singh
...Appellant(s)

Versus

Hukam Singh and others
...Respondent(s)

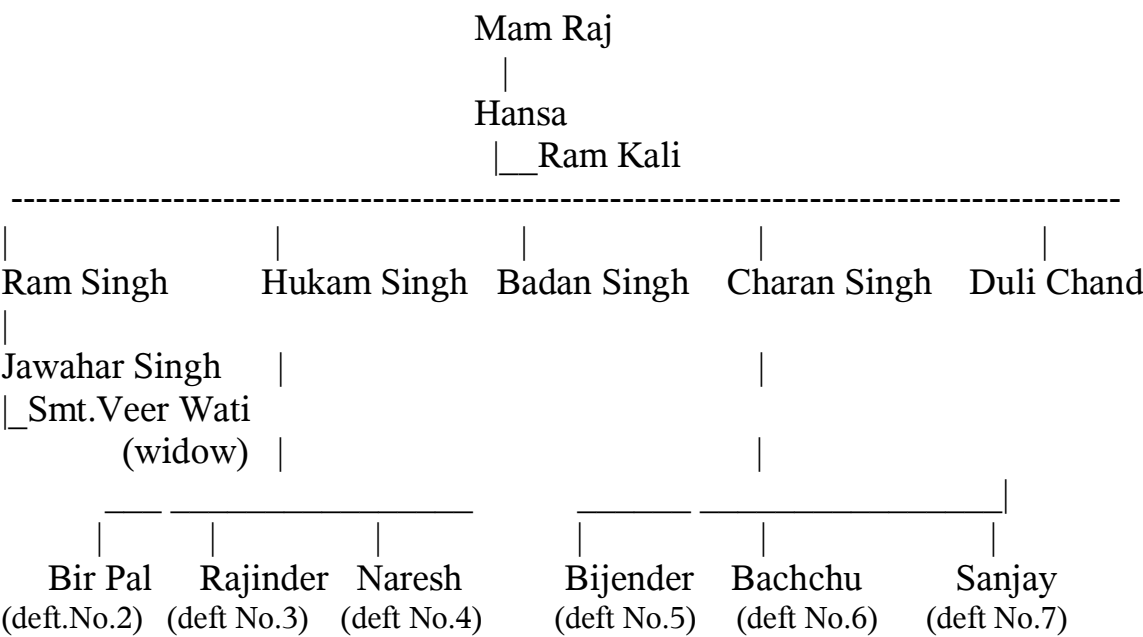
CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Adarsh Jain, Advocate for the appellant.
Mr.R.S.Sihota, Senior Advocate with
Mr.B.R.Rana, Advocate for the respondents.

ANIL KSHETARPAL, J.

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below, dismissing the suit filed by him for declaration challenging correctness of judgment and decree dated 22.03.1996 suffered by Smt.Ram Kali, his grand mother.

Inter se relationship can be noticed from the following pedigree table:-



Undisputedly facts are that Hansa, the common ancestor of the parties, had left behind five sons and a widow. His death took place after

coming into force the Hindu Succession Act, 1956 (for short 'the Act of 1956'). Two sons of Hansa namely Badan Singh and Duli Chand died issueless resulting in Smt.Ram Kali, being mother, inheriting the property of her two sons. On the death of Hansa, property was inherited as per Section 8 of the Act of 1956 by all the Class I heirs including Smt.Ram Kali.

Acknowledging a family settlement, Smt.Ram Kali suffered a decree in favour of her grand-sons from two sons namely Hukam Singh and Charan Singh to the extent of 9/28th share. The plaintiff filed a suit, claiming that the suit property is joint hindu family ancestral property.

Both the courts on appreciation of evidence have found that the property in the hands of Smt.Ram Kali was neither joint hindu family nor ancestral.

Learned counsel for the plaintiff-appellant has submitted that the judgment and decree passed on 22.03.1996 is not binding on his rights as being a member of family was never joined at the time of family settlement. He has further submitted that the decree which results in transfer of the immovable property worth more than Rs.100 requires registration.

As far as the first argument, it may be noticed that on the death of Hansa, the Class-I heirs, who received the property under Section 8 of the Act of 1956 became independent owners. It is not in dispute that Ram Singh got his share in the property from Hansa. In such circumstances, the property in the hands of Smt. Ram Kali, which, either came from Hansa or from his two issueless sons, cannot be said to be joint hindu family ancestral property. In such circumstances, the plaintiff cannot claim that he had any right in the property. Smt.Ram Kali did not chose to acknowledge the

plaintiff to be owner of any part of her property.

As regards second argument, it may be noted that the judgment and decree passed by the civil court, acknowledging a prior family settlement does not require registration. Family settlement is a well known method of settling the dispute between the family members. Once the decree itself does not result in transferring the rights in the immovable property worth more than Rs.100 as in the present case, such decree does not require registration. A reference in this regard can be placed on the judgment of this Court passed in **RSA No.2708 of 2005 (Dhian Singh and others Vs Mohinder Singh and others) decided on 26.10.2017.**

In view of the above, there is no ground to interfere. Hence, regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

11.03.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No