

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

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RSA 4206 of 2019 (O&M)
Date of decision: 13.09.2019

Harjit Kaur and another

.....Appellants

Versus

Rajwant Singh and other

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. A S Sandhu, Advocate
for the appellants

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Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit filed by the respondents/plaintiffs claiming inheritance to late Smt. Jasbir Kaur wife of Gurdip Singh to the exclusion of defendants No. 1 to 3 and late Shri Kulwant Singh including the appellants has been allowed by the Courts, in view of provisions of Section 15 of the Hindu Succession Act, 1956 (in short, 'the Act') that deals with *general rules of succession in the case of female Hindus*.

Counsel for the appellants has not disputed that defendants No. 1 to 9 are not the real children and grand children of late Smt. Jasbir Kaur as Harjit Kaur, Lakhwinder Kaur, Sukhwant Singh and Kulwant Singh (since deceased) were born out of wedlock of Gurdip Singh (since deceased) and Mohinder Kaur with whom Gurdip Singh was married prior to his marriage

with Smt. Jasbir Kaur, meaning thereby that sons and daughters born out of the wedlock of Mohinder Kaur and Gurdip Singh are the step children of Smt. Jasbir Kaur, inheritance to whose estate is in question in the present litigation. However, counsel for the appellants would argue that since the appellants, Sukhwant Singh and children of Kulwant Singh (since deceased) are the class-I heirs of late Gurdip Singh, husband of Smt. Jasbir Kaur, they are entitle to share in the suit property, in view of the provisions of Section 15 (1) (b) or Section 15 (2) of the Act. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court ***Seethalakshmi Ammal vs Muthuvenkatarama Iyengar and another, 1998 (5) SCC 368.***

The contention raised by counsel for the appellants is patently misconceived and liable to be rejected. Under Section 15(1) of the Act, the property of a female Hindu dying intestate shall devolve according to the rules set out in Section 16 of the Act; (a) *firstly*, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband; (b) *secondly*, upon the heirs of the husband.

The husband of Jasbir Kaur is stated to have passed away before death of Jasbir Kaur. That being so, property left behind by Smt. Jasbir Kaur at the first instance, would devolve upon her sons and daughters including the children of any pre-deceased son or daughter. In the given circumstances, the appellants cannot claim inheritance to estate of Smt. Jasbir Kaur, being Class I heirs of her husband Shri Gurdip Singh.

The judgment cited by counsel for the appellants has got no bearing on the facts of the case at hand because in the said case, there was no heir available mentioned in clause (a) when Gomathi Ammal died and in

those circumstances, daughter-in-law of Gomathi Ammal was held entitle to inherit to her estate being Class-I heir of her deceased husband under clause (b). In this view of the matter, I do not find an error much less perversity in consistent findings recorded by the Courts.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

13.09.2019
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No