

**RSA-4495-2016 (O&M)**

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

**RSA-4495-2016 (O&M)  
Date of decision : 17.01.2019**

Sayta Devi (deceased) through LRs

... Appellant

Versus

Avtar Singh @ Tita and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Vishal Munjal, Advocate  
for the appellant.

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**AMIT RAWAL, J. (ORAL)**

The appellant-plaintiff has not been successful in claiming declaration of the absolute owner in the respect of land measuring 18 kanals 1 marla on the premise that she was absolute owner being wife of Mahavir Singh. The entry in the jamabandi for the year 2000-01 reflecting the name of Shubhdarshan Singh, father of defendant Nos.1 and 2 and father of defendant Nos.6 to 10, Jagdish Singh, was incorrect. Mahavir Singh along with Jagdish Singh was co-owner and both were in separate and exclusive possession. Mahavir Singh died on 23.12.1971 and his son allegedly inherited the estate qua his half share in 125 kanala 2 marals and Shubhdarshan Singh became owner of half share including the suit land left by Mahavir Singh. The plaintiff was dependent upon Mahvir being widow and had rights in view of the provisions of Section 14 of the Hindu Succession Act.

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Defendant Nos.1 and 2 opposed the suit and denied the status of the plaintiff to be legally wedded wife of Mahavir Singh and absolute owner much less, possession or applicability of the provisions of Section 14 of the Hindu Succession Act.

In the replication, it was stated that the father of defendant Nos.1 to 3, had inherited the estate left by Mahavir Singh, on the basis of the registered Will dated 26.11.1964, wherein Mahavir Singh accepted the right of maintenance of second wife and bequeathed limited life estate of land measuring 18 kanals.

The plaintiff-appellant examined as many as two witnesses and brought on record various documents, whereas defendant has examined himself and closed the evidence.

Learned counsel for the appellant submitted that the documentary evidence, much less, the Will, established the status of the plaintiff to be wife, therefore, there was no requirement of compliance of provisions of Section 50 of the Indian Evidence Act. The signatures on the Will have gone un-controverted or un-rebutted. In such circumstances, the inheritance by the defendant for the half share of Mahavir Singh *in toto* was not permissible.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, it has been brought on record that Mahavir Singh, during his lifetime, had already sold the land, therefore, he was not having any title and interest in the property, even if, she was legally wedded wife, assuming for sake of argument, had not admitted. Mahavir Singh could not have acknowledged the maintenance of her, in the absence of any title.

In this view of the matter, I do not find any illegality and

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perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

**17.01.2019**  
Yogesh Sharma

**( AMIT RAWAL )**  
**JUDGE**

Whether speaking/reasoned    **Yes/ No**

Whether Reportable                **Yes/ No**