

RSA-4911-2016 (O&M)

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

RSA-4911-2016 (O&M)

Date of decision : 18.01.2019

Raj Kaur and another

... Appellants

Versus

Harjinder Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. L.S. Sidhu, Advocate
for the applicant/appellants.

AMIT RAWAL, J. (ORAL)

CM-17851-C-2018

For the reasons stated in the application, the appeal is ordered
to be restored to its original number.

CM stands disposed of.

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The present regular second appeal, at the instance of the appellants-defendant Nos.3 and 4, is directed against the concurrent findings of fact, whereby the suit of the respondent No.1-plaintiff of having become co-owner to the extent of 1/4th share left by Arjun Singh, in her favour, has been decreed by the trial Court and affirmed by the lower Appellate Court.

It was alleged that Arjun Singh died intestate and did not execute the will, therefore, she along with three sisters and brothers acquired 1/4th share.

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The defendants opposed the suit and alleged that the suit property was coparcenary. Arjun Singh died about 19-20 years ago i.e. before filing of the suit, but at that time, the provisions of Section 6 of the Hindu Succession Act, 1956 (in short 'the 1956 Act') did not accord any right to the daughter by birth.

The plaintiff in support of her case examined herself as PW1, Manjit Kaur as PW2 and Hardeep Singh as PW3, whereas the defendants examined themselves as DW1 to DW3 and both the parties led evidence in support of their respective pleadings.

Learned counsel for the appellants-defendants submitted that the suit could not have been decreed as married daughter did not have any right by birth in a coparcenary property before amendment in Section 6 of the 1956 Act, as Arjun Singh died 19-20 years ago before filing of the suit, which was filed in the year 2013.

I am afraid the aforementioned argument is not sustainable in the eyes of law, as no evidence with regard to the death of Arjun Singh or date of death as well as the nature of the property being coparcenary, has been placed on record. In such circumstances, the property was treated to be self-acquired of Arjun Singh and therefore, the provisions of Section 8 of the 1956 Act would apply, instead of Section 6 of the 1956 Act. The plaintiff being daughter had 1/4th share. This is what has been held by the Courts below.

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

18.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**