

RSA-6707-2016 (O&M)

119

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

RSA-6707-2016 (O&M)

Date of decision : 11.03.2019

Bimla and another

... Appellants

Versus

Bimla

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Bhupinder Kaur, Advocate for
Mr. Sanjeev Kodan, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

CM-17508-C-2016

For the reasons stated in the application, which is supported by
an affidavit, delay of 45 days in re-filing the appeal is condoned.

CM stands disposed of.

MAIN CASE

The present regular second appeal is directed against the
concurrent findings of fact, whereby claim of the appellants-plaintiffs being
daughters of Ramehar and sisters of Rajender, asserting the right in the
property left by Ramehar to be coparcenary, has been declined.

It was alleged that Ramehar, during his life, suffered a decree
dated 02.10.1996 in favour of the plaintiffs, which was challenged by
Rajender, husband of defendant No.1 and vide judgment and decree dated
25.01.2001, the same was set aside. Ramehar executed a Will dated
05.06.2002, bequeathing his entire estate in favour of Rajender, who died in
2011, but before death, executed a Will dated 11.08.2009.

RSA-6707-2016 (O&M)

Ms. Bhupinder Kaur, learned counsel appearing on behalf of the appellants-plaintiffs submitted that in the previous round of litigation i.e. decree of 1996, there was a categoric admission of the parties with regard to the nature and character of the property being coparcenary/ancestral. The Will of Ramehar did not disclose any reflection of personal necessity or proved by the defendants and therefore, the right of survivorship accrued in favour of the plaintiffs, by considering the death of Ramehar as intestate, thus, there is gross illegality and perversity.

I am afraid the aforementioned argument is not sustainable in the eyes law, for the simple reason that concededly, Ramehar died on 06.09.2002 and at that time, the provisions of Section 6 of the Hindu Succession Act, did not give any right to the daughter in a coparcenary/ancestral property. Filing of the suit in 2011, i.e. post amendment, will not give the right, which was not permitted in law.

As an upshot of my finding, I do not subscribe to the submissions of Ms. Bhupinder Kaur, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the second appeal is dismissed.

11.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**