

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

RSA-1622-2018 (O&M)

Date of decision : 09.09.2019

Monika

.... Appellant

Versus

Dalip Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Abhimanyu Sharma, Advocate
for the appellant.

Mr. R.N. Lochan, Advocate
for the respondent.

RAMENDRA JAIN , J (ORAL)

Plaintiff through this Regular Second Appeal has laid challenge to judgment and decree of the Lower Appellant Court dated 01.02.2018, reversing judgment and decree of the trial Court dated 08.05.2015 decreeing her suit, whereby she was declared a coparcener in the suit property, ancestral in nature, to secure her future and maintain herself.

Briefly, the appellant is the grand daughter of respondent-defendant Dalip Singh. She claiming herself to be a coparcener filed a suit for declaration and permanent injunction against respondent-defendant to declare her as co-sharer to the extent of 2/251th share in the Joint Hindu Family Property in the hands of her grand father.

Learned trial Court after holding trial, decreed her suit vide judgment and decree dated 08.05.2018.

Being aggrieved, the respondent-defendant approached the Lower Appellant Court, who reversing the aforesaid judgment and decree of the trial Court, dismissed the suit of the appellant, holding that to claim right by birth in an ancestral property, a person has to be in the fourth generation in lineage. The appellant-plaintiff had miserably failed to lead any evidence to prove that the property in the hands of her grand father Dalip Singh was coparcenary.

Learned counsel for the appellant relying upon photocopy of mutation No.6111 Ex. P-1 and jamabandi for the year 2003-04 Ex.P-2 *inter alia* urged that both the Courts below have failed to appreciate that property in the hands of respondent-defendant Dalip Singh was coparcenary being inherited by him from his father Sheo Narayan. Since, the appellant-plaintiff is in fourth generation of his great grand father Sheo Narayan, therefore, is entitled to share in the coparcenary property left by Sheo Narayan. In support of his contention, learned counsel for the appellant placed reliance on ***Danamma @ Suman Surpur and another v. Amar and others, 2018(1) R.C.R.(Civil) 863 (S.C.).***

On the other hand, learned counsel for the respondent, pleading legality and validity of the impugned judgment and decree of the lower appellate Court and relying upon ***Bhanwar Singh v. Puran and others***, 2008(2) R.C.R.(Civil) 99 (S.C.), ***Uttam v. Saubhag Singh***, 2016(2) R.C.R.(Civil) 309 (S.C.), ***Sheela Devis v. Lal Chand and another***, 2006(4) R.C.R.(Civil) 912 (S.C.) and ***Jai Singh and others v. Rajinder Parshad***, (2016-4) PLR 630 (P&H) prays for dismissal of instant appeal.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

To prove ancestral character of suit property, it was mandatorily required for the appellant-plaintiff to prove that it in the hands of her grand father Dalip Singh was initially acquired by his great grandfather. It was required by her to prove that Dalip Singh in fourth generation had succeeded to the suit property. However, she did not lead any evidence except mutation Ex.P-1 and jamabandi Ex.P-2, which simply proves that her grandfather Dalip Singh had inherited property from his father Sheo Narayan. This fact is not sufficient to hold that the suit property in the hands of Dalip Singh was coparcenary property.

No other point raised or arises in this appeal.

No question of law much less substantial has been raised in this appeal. Therefore, same is held not maintainable.

Dismissed.

**(RAMENDRA JAIN)
JUDGE**

09.09.2019

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No