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

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Date of decision : 20.02.2019

Gagandeep Kaur

... Appellant

Versus

Baljinder Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surinder Garg, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

CM-432-C-2017

For the reasons stated in the application, which is supported by an affidavit, the delay of 30 days in refiling the appeal is condoned.

CM stands disposed of.

CM-433-C-2017

For the reasons stated in the application, which is duly supported by an affidavit, the delay of 13 days in filing the appeal is condoned.

CM stands disposed of.

CM-435-C-2017

For the reasons stated in the application, which is supported by an affidavit, the application is allowed and the appellant is permitted to file the appeal as a pauper/indigent person.

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The appellant-plaintiff, in the present regular second appeal, against the judgment and decree of the lower Appellate Court, whereby the judgment and decree of the trial Court decreed the suit of the plaintiff for maintenance and creation of first charge, has been modified, to the extent that first charge of maintenance of ₹1,000/- per month had created on the half portion i.e. 4 kanals of land in question bearing Khasra No.79//3 (4-5), 8/1 (3-15), instead of the entire land i.e. 8 kanals.

Mr. Surinder Garg, learned counsel appearing on behalf of the appellant-plaintiff submitted that the plaintiff was the daughter of the defendant, who had married Binder Singh, therefore, sought the maintenance of ₹1,000/- and in alternative, creation of charge. The defendant opposed the suit and stated that she had been residing with the grandfather and grandmother, also having landed the property in her name. During the lifetime of her husband-Binder Singh, father of Gagandeep Kaur, purchased one killa from Bir Chand son of Ram Rakha. Her mother-in-law and father-in-law did not obtain the mutation sanctioned, of the land, but in alternative, it was stated that the defendant was ready to take care of the plaintiff and maintain her and also propounded an agreement dated 18.06.2006, whereby the plaintiff was retained forcibly. The trial Court, by noticing all these facts, decreed the suit and ordered that it was the prime duty of the mother to maintain her and thus, attached 8 kanals of land. The lower Appellate Court has committed illegality and perversity in reducing the same as 4 kanals of land, which is totally erroneous and perverse.

I am afraid the aforementioned arguments are not sustainable in

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the eyes of law, for, the maintenance of ₹1,000/- could be fetched by creating a charge on 4 kanal of land and not on the entire land. No attenuating circumstances or material evidence has been placed on record for suggesting that the charge was liable to be created on the entire land.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Garg, to form a different opinion than the one already arrived at by the lower Appellate Court, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

20.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**