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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-4846-2017 (O&M)
Date of decision : 19.03.2019

Prankur Tyagi and others

... Appellants

Versus

Adarsh Tyagi @ Sunita Tyagi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the appellants.

****

AMIT RAWAL, J. (ORAL)

CM-12826-C-2017

For the reasons stated in the application, which is supported by an affidavit, delay of 67 days in filing the appeal is condoned.

CM stands disposed of.

MAIN CASE

The short point involved in the present regular second appeal is whether the property at the hands of Jagat Singh was ancestral in nature. As per the judgments and decrees of the Courts below partly decreeing the suit and giving the right to plaintiff No.2 being daughter of Jagat Singh, from his first wife, Jagat Singh inherited from his grandfather i.e. great grandfather of the plaintiff. As per para 221, 21st Edition of Mulla's Hindu Law, a person asserting the right must prove that he is holding the property from three generations and he or she being fourth one. For the sake of brevity, the said provisions reads as under:-

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> *"221. Ancestral Property. (1) Property inherited from paternal ancestor. All property inherited by a male Hindu from his father, father's father or father's father's father, is ancestral property. The essential feature of ancestral property according to Mitakshara law is that the sons, grandsons and great-grandsons of the person who inherits it, acquire an interest and the rights attached to such property at the moment of their birth....."* .

Sunda Mal was the father of Raja Ram and grandfather of Jagat Singh, thus, Sunda Mal would be great grandfather of plaintiff No.2.

The argument of Mr. Abhinav Sood that the plaintiffs claimed the right on the premise that the property at the hands of Jagat Singh was ancestral, whereas it could not have been proved that it was from two generations.

The aforementioned argument, in my view, is totally devoid of any merit, for the simple reason that she was the daughter and the right accrued to her only after amendment in Section 6 of the Hindu Succession Act w.e.f. September 2005, giving the right to the daughter in the ancestral property. Concededly, Jagat Singh died in the year 2008 and in such circumstances, the partial decree protecting the right of plaintiff No.2 qua estate of Jagat Singh, cannot be said to be suffering from illegality and perversity, much less, no substantial question of law arises for determination. No ground is made out for interference. Resultantly, the present regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

19.03.2019
Yogesh Sharma

Whether speaking/reasoned **Yes/ No**
Whether Reportable **Yes/ No**