

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

RSA-48-2018(O&M)

Date of decision:-4.9.2019

Bhupinder Kaur

...Appellant

Versus

Amarjit Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Jagjit Singh, Advocate
for the appellant.

H.S. MADAAN, J.

The dispute between the parties is with regard to estate of Tarsem Singh, who died on 14.4.2010. Tarsem Singh was married with Amarjit Kaur and the couple had two sons, namely, Resham Singh and Ravinder Singh and three daughters, namely, Mandeep Kaur, Manjit Kaur and Sandeep Kaur. However, during the subsistence of his marriage with Amarjit Kaur, Tarsem Singh had got married with Bhupinder Kaur on 14.8.2000. Bhupinder Kaur had given birth to a daughter, namely, Sukhdeep Kaur from the loins of Tarsem Singh. Tarsem Singh was owner of land measuring 20 kanals 19 marlas being 419/5340 share out of total land measuring 267

kanals situated at village Saghey, Tehsil and District Tarn Taran. After his death, Bhupinder Kaur and her daughter Sukhdeep Kaur got mutation regarding estate of Tarsem Singh sanctioned in their favour on the basis of a Will dated 25.3.2010. However, that mutation order was challenged in appeal by Amarjit Kaur widow of Tarsem Singh and her children, resultantly the order was set aside. Amarjit Kaur and her children brought a suit against defendants Bhupinder Kaur and Sukhdeep Kaur seeking a declaration that plaintiffs are legal heirs and successors of deceased Tarsem Singh and are owners in possession in equal shares in respect of land measuring 20 kanals 19 marlas earlier in the name of Tarsem Singh besides craving for grant of permanent injunction restraining the defendants from interfering in possession of the plaintiffs over the suit land.

On notice the defendants appeared and filed written statement contesting the suit. Defendant No.1 Bhupinder Kaur claimed herself to be legally wedded wife of Tarsem Singh and Sukhdeep Kaur being their legitimate daughter. She denied any knowledge with regard to previous marriage of Tarsem Singh with Amarjit Kaur and they having coupled from that wedlock. The defendants craved for dismissal of the suit.

Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

After hearing arguments, Additional Civil

Judge(Sr.Divn.), Tarn Taran partly decreed the suit to the effect that plaintiff No.1 being widow, plaintiffs No.2 and 3 being sons and plaintiffs No.4 to 6 being daughters are entitled to the property left behind by Tarsem Singh along with defendant No.2 Sukhdeep Kaur to the extent of 1/7th share each and defendants were restrained from interfering into the possession of the plaintiffs forcibly. While doing so, the trial Court had observed that the marriage of Tarsem Singh with Bhupinder Kaur even if taken to be there, was void as per Section 11 of the Hindu Marriage Act since Tarsem Singh could not contract a second marriage during the subsistence of his first marriage with Amarjit Kaur. It being so, defendant No.1 Bhupinder Kaur being not legally wedded wife of Tarsem Singh is not entitled to any property left behind by Tarsem Singh. Whereas with regard to Sukhdeep Kaur – defendant No.2 referring to the case law and Section 16(3) of the Hindu Marriage Act that an illegitimate child can claim rights to the property of their parents observed that a child of a void or voidable marriage can claim rights to the property of his parents but none-else.

The judgment and decree passed by the trial Court on 1.12.2015 were challenged by defendant No.1 – Bhupinder Kaur by way of filing an appeal before Additional District Judge, Tarn Taran, which was however dismissed vide judgment and decree dated 30.11.2016.

Still feeling aggrieved Bhupinder Kaur has approached this Court by way of filing regular second appeal.

I have heard learned counsel for the appellant besides going through the record and I find that the judgments recorded by the courts below are detailed and well reasoned, based upon proper appraisal of evidence and correct interpretation of law. There is no illegality or infirmity therein, which might have called for interference by this Court while hearing second appeal.

No substantial question of law arises in this appeal.

Therefore, I do not find any merit in the present appeal and do not see any reason to disturb the legal, valid and well reasoned judgments passed by the Courts below.

The appeal stands dismissed accordingly.

4.9.2019

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(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No