

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

**Regular Second Appeal No.5813 of 2018 (O&M)
Date of Decision: February 22, 2019.**

Smt. Raj Bala

.....APPELLANT(s).

VERSUS

Hari Om and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Kotla, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This is second appeal filed by Smt. Raj bala, plaintiff against the concurrent judgments of the Courts below, whereby a suit seeking relief of declaration that judgment and decree dated 05.06.1989 suffered by her father Suraj Bhan in favour of Hari Om, defendant No.1 and the consequent mutation No.2320 dated 30.04.1990 are illegal, null and void to the extent of her 1/6th share in the suit property measuring 181 kanals 8 marla situated in revenue estate of village Barona, Tehsil Kharkhoda, District Sonipat. Appellant-plaintiff alleged that the suit property is ancestral and coparcenary property inherited by her father Suraj Bhan from his father Molar and Molar inherited the same from his father Bhai Ram. Suraj Bhan has no male issue and had two daughters namely Raj Bala and Jado (since deceased). Being the daughter, plaintiff is coparcener of the suit property with her father and the judgment and decree dated 05.06.1989 suffered by

him at her back is not binding on her.

The suit of the plaintiff was dismissed by the Civil Judge (Junior Division), Sonipat with the observation that the plaintiff was not coparcener of the suit property at the time of passing of the decree, as such, has no right to challenge the same.

Learned first Appellate Court on the plea of plaintiff observed as follows:-

“16. It is not disputed that defendant no.2 Suraj Bhan, father of the plaintiff had only two daughters namely, plaintiff and Jado. He was sonless proprietor. In *Mitakshra Law*, a sonless proprietor holds his ancestral property as his absolute property and can deal with it in any manner as he likes.”

Learned counsel for the appellant could not rebut the observation of the Courts below that prior to the amendment of Section 6 of Hindu Succession Act in the year 2005, appellant-plaintiff was not a coparcener and a specific proviso was added while amending Section 6 of the above Act that it shall not affect or invalidated any disposition or alienation including any partition or testamentary disposition of property, which had taken place before 20th day of December 2004. At the time of suffering the decree dated 05.06.1989, Suraj Bhan being the last male holder of the property was absolute owner and was competent to dispose of the same. He is alive and never alleged any fraud, coercion or undue influence on him at the time of passing of the decree, as such, the plaintiff could not raise any such plea.

The Courts below have committed no error while observing

that the plaintiff is debarred from raising any plea regarding disposing of the

property by Suraj Bhan vide judgment and decree dated 05.06.1989.

On perusal of the record and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

February 22, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***