

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

**RSA-2641-2022 (O&M)
Decided on:-05.12.2022**

Smt. Santosh Kumari

....Appellant..

vs.

Birbal and others

....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. D.R. Punia, Advocate,
for the appellant.

HARKESH MANUJA J. (Oral)

By way of present appeal, challenge has been made to the judgment and decree dated 05.09.2022 passed by the Court of learned Additional District Judge, Sirsa, reversing the judgment and decree dated 24.12.2014 passed by the court of Learned Civil Judge (Junior Division) Sirsa.

2. Brief facts of the case are that alleging herself to be the daughter of deceased-Bhajan Lal, appellant/plaintiff filed a suit for declaration and possession, claiming 1/6th share out of his estate. The suit was filed against the three brothers of Bhajan Lal, stating the suit property to be ancestral/coparcenary in nature.

3. Upon notice, respondents-defendants appeared and disputed the factum of appellant-plaintiff being the daughter of deceased-Bhajan Lal, besides even disputing the nature of the suit property to be ancestral/coparcenary. The trial court vide its judgement and decree dated 24.12.2014 granted a decree for declaration and possession in favour of appellant/plaintiff by holding her to be the daughter of deceased-Bhajan Lal

as well as recorded a finding that the suit property being ancestral/coparcenary in nature.

4. Aggrieved against the judgment and decree passed by the trial court, respondents-defendants filed first appeal, which was allowed by the court of learned Additional District Judge, Sirsa, reversing the judgment and decree dated 24.12.2014 passed by the trial court, thereby dismissing the suit filed at the instance of appellant/plaintiff.

5. By way of present appeal, challenge has been made to the judgment and decree dated 05.09.2022 passed by the first Appellate Court.

6. It has been vehemently contended on behalf of appellant that the first Appellate Court went wrong while reversing the well reasoned judgment and decree dated 24.12.2014 passed by the trial court reversing a finding of fact which was based on the documentary evidence as regards appellant-plaintiff being the daughter of deceased-Bhajan Lal.

7. Learned counsel for appellant further contend that as per the records produced by appellant-plaintiff, she was shown to be recorded as daughter of deceased-Bhajan Lal and thus, findings of the first Appellate Court are per se illegal.

8. I have heard learned counsel for the appellant and have gone through the judgments passed by both the courts below.

9. A careful perusal of judgment and decree passed by the learned first Appellate Court, one can see through that all the documents showing appellant-plaintiff to be the daughter of deceased-Bhajan Lal, having born on 03.08.1991 were admittedly prepared by the authorities and issued between 14.07.2010 to 23.07.2010. Not even a single document showing the date of birth of appellant-plaintiff to be 03.08.1991, was produced on record, having got prepared by the parents of appellant-plaintiff

immediately after her birth in August 1991 only. More than that even in the plaint itself, appellant-plaintiff chose not to mention any specific date of her birth, which again raises doubt about the authenticity of case set up by her of being the daughter of deceased-Bhajan Lal.

10. Having perused the judgment dated 05.09.2022, one can trace out that a finding of fact, based on proper appreciation of documentary evidence has been recorded by the first Appellate Court to the effect that appellant-plaintiff was not related to Bhajan Lal (deceased) and as such, had no right to claim any share out of his estate/property.

11. Accordingly, finding no substantial question of law involved in the present appeal, I do not find any illegality or infirmity in the finding of fact as recorded vide impugned judgment and decree dated 05.09.2012 passed by the first Appellate Court, which thus, calls for no interference. As such, the present appeal is dismissed with no orders as to costs.

12. Pending applications, if any, shall stand disposed of.

05.12.2022
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No