

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

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2023:PHHC:142861

**RSA-4261-2019 (O&M)
Date of decision: 08.11.2023**

JAGBIR SINGH

..Appellant

Versus

SHAKUNTLA DEVI AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Singal, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the Courts below is challenged by the defendants. The plaintiff (respondent herein) is the niece of defendants. It is not in dispute that the property originally belongs to Sh. Sube Singh, the deceased father of the plaintiff (respondent herein). She claims that her mother also died on 04.10.2013, and therefore, she is in possession of half share of the property, whereas, the remaining half share is in the possession of the defendants, who have encroached upon the same. The defendants who are two uncles of the plaintiff claim that after the death of late Sh. Sube Singh, the plaintiff's mother wanted to re-marry. At that time, an oral family settlement was arrived at according to which she relinquished her share in the aforesaid property.

2. Both the Courts on appreciation of evidence have found that the appellants (defendants) before the trial Court failed to prove any family settlement. Thus, the plaintiff being the absolute owner of the property was held entitled to possession of the property in dispute.

3. The learned counsel representing the appellant contends that the suit filed by the plaintiff was barred by the limitation period as it was filed after a period of 12 years from the date of death of Sh. Sube Singh.

4. This Court has considered the submissions of the learned counsel representing the petitioner.

5. Article 65 of the Schedule attached to the Limitation Act, 1963, provides that the period of 12 years will begin to run when the possession of the defendant becomes adverse to the plaintiff. It is not the case of the defendants that their possession becomes adverse to the plaintiff on the date their brother i.e. late Sh. Sube Singh died. The parties are closely related. There is a huge possibility that after the death of their brother, the defendants being two uncles have brought up the plaintiff. However, that itself would not give them right to claim her property.

6. Hence, no ground to interfere is made out.

7. Dismissed accordingly.

8. All the pending miscellaneous applications, if any, are also disposed of.

November 08th, 2023

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(ANIL KSHETARPAL)
JUDGE

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