

2024:PHHC:020485

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

RSA-642-2021 (O&M)
Date of decision: 13.02.2024

Om Parkash (deceased) through his Lrs and others

....Appellants

Versus

Raji and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashwani Gaur, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

CM-3453-C-2021

1. For the reasons stated in the application, delay of 98 days in re-filing the appeal is condoned.
2. CM stands allowed.

Main case

3. In this Regular Second Appeal, the defendants assail the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for the grant of decree of declaration with a consequential relief of joint possession. The plaintiffs (respondents) are widow and daughter of late Sh.Bhanwar Singh s/o Sh.Chander. They filed a suit for grant of decree of declaration that the release deed executed by Sh.Chander in favour of defendant no.1 to 5 is not binding on their rights as the suit property was joint Hindu Family ancestral property. The defendants, on the other hand, while contesting the suit claimed that late Sh.Bhanwar Singh was unmarried and plaintiff

no.1 and 2 are not his widow and daughter, respectively. During the course of proceedings, the judgment passed by the court while granting permission to sell minor's property was produced (Ex.P-22) which proved that Barkha (plaintiff no.2) was daughter of Sh.Bhanwar Singh. Even the revenue authorities sanctioned mutation in favour of the plaintiffs as Class I heirs of late Sh.Bhanwar Singh. While filing the written statement, the defendants have not disputed the correctness of the family tree reproduced by the plaintiffs. Moreover, oral evidence was also led to prove that Smt.Raji was widow of late Sh.Bhanwar Singh whereas Barkha was his daughter. Both the courts have also found that the property initially came from Sh.Gulab to his son Sh.Udai and thereafter, from Sh.Udai to Sh.Sukh Lal and from him, it came to Sh.Chander his son. Thus, it was proved that the property has been inherited from the last four generations.

4. Both the courts, on appreciation of evidence, have found that the defendants were not justified in depriving the plaintiffs from their share in the joint Hindu Family property, which was ancestral in nature.

5. Learned counsel representing the appellants, though made sincere attempt, however, failed to draw the attention of the Court to any misleading or non-reading of evidence. He also failed to draw the attention of the Court to any perversity in the judgments passed by the courts below.

6. Hence, dismissed.

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

13.02.2024
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE