



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2226 of 2019 (O&M)

Date of Decision: 10.03.2025

Vikram (Since Deceased) through his Legal Representatives

... Appellant(s)

Versus

Shamsher Singh (Since Deceased) through his Legal Representatives and

Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. M.S.Dalal, Advocate
for the appellant(s).

Mr. Dinesh Arora, Advocate
for respondents No.1 to 4.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The defendant No.2 assails the correctness of the concurrent findings of facts arrived at by both the Courts below while decreeing the plaintiffs' suit for the grant of decree of declaration that they are entitled to succeed to the property left behind by late Amir Singh. In fact, the parties to the suit are the successors-in-interest of late Amir Singh. In other words,

Amir Singh was their predecessor-in-interest, who died intestate in the year

1970. The plaintiffs are his son, widow and two daughters. The defendants No.1 and 2 are his other two sons whereas defendants No. 3 and 4 are his other two daughters. In substance, late Amir Singh left behind eight class-I heirs.

3. The defendants No.1 and 2 claim that late Amir Singh left behind loan of ₹42,293.66, which was paid by them and in a family settlement, it was agreed that the other defendants have relinquished their share, however, they failed to prove the same. A civil suit was also filed by the defendant No. 1 against defendant No.2 which resulted into a consent decree. However, the plaintiffs were not parties to the said suit. Hence, the Trial Court decreed the plaintiffs' suit which, in appeal, was affirmed by the First Appellate Court.

4. The learned counsel representing the appellant contends that the suit filed by the plaintiffs was beyond the prescribed period of limitation as Amir Singh died in the year 1970 whereas the suit was filed in the year 2012.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. The period of limitation will not begin to run from the date of death of Amir Singh. It will depend upon the cause of action to file a suit. The moment Amir Singh died, his class-I heirs inherited his property. The succession does not remain in abeyance even for split of second. The moment Amir Singh died, his class-I heirs became owners of the property. Both the Courts below have held that the cause of action to file a suit arose when the defendants No.1 and 2 refused to acknowledge them to be the

owners. Hence, the plaintiffs have not filed a suit beyond the prescribed period of limitation.

7. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 10, 2025
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No