

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2062-1992 (O&M)
Reserved on: 20.02.2025
Date of decision: 28.02.2025

LAKHI RAM (DECEASED) THROUGH LRS. & ORS.

..Appellants

Versus

INDER SINGH (DECEASED) THROUGH LRS. & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravi Kamal Gupta, Advocate
for the appellants.

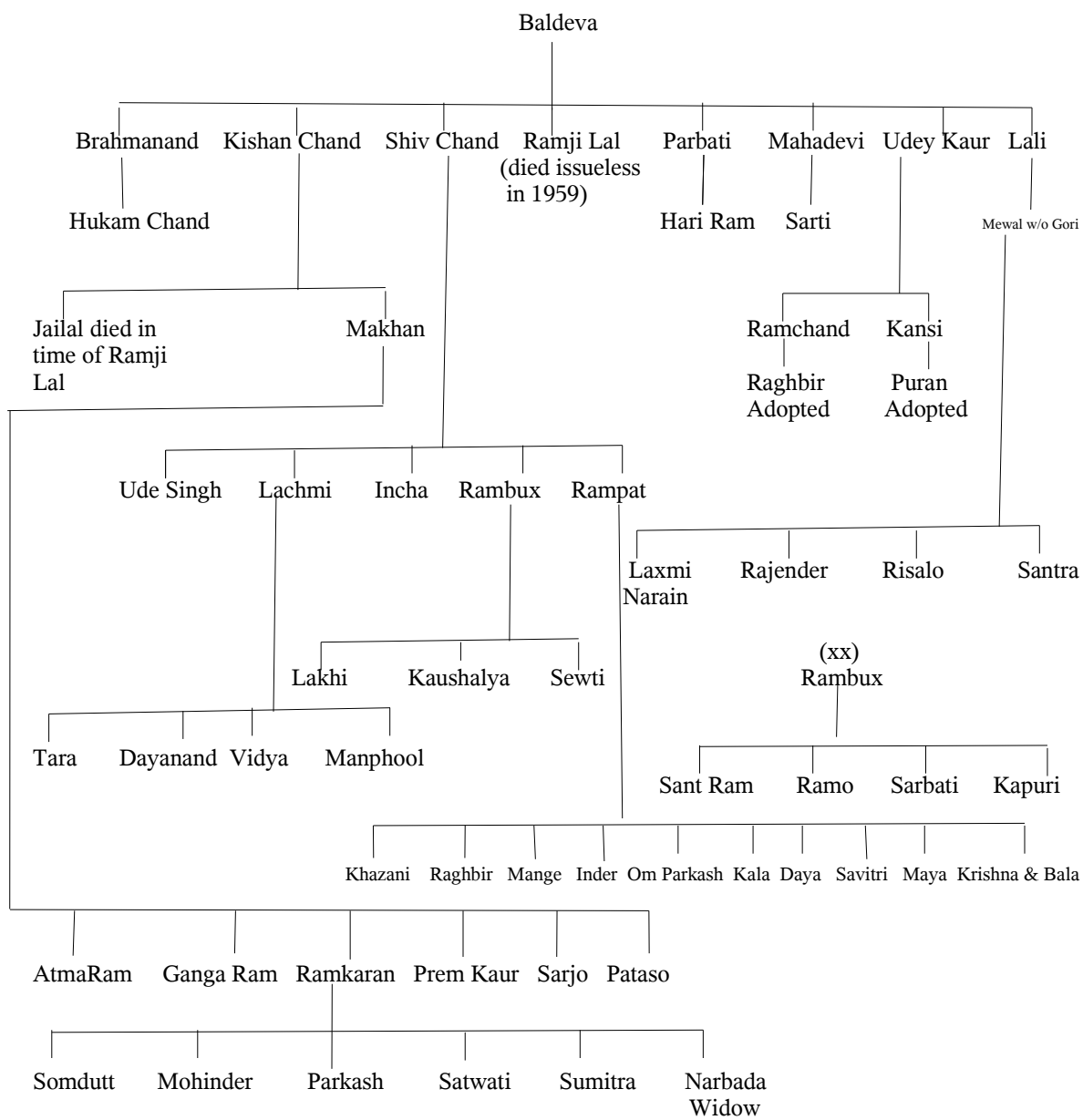
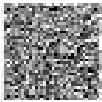
Mr. Ramesh Hooda, Advocate
for respondents.

ANIL KSHETARPAL, J.

1. Brief facts of the case:-

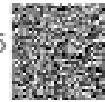
1.1 The plaintiffs assail the correctness of First Appellate Court's judgment, which in turn has reversed the judgment passed by the trial Court. The question is with regard to inheritance of property left behind by late Sh. Ramji Lal, who was unmarried and issueless. In the year 1979, vide mutation No.1892, his property was divided amongst three persons in the following manner, 1/3rd share was mutated in favour of Sh. Hukam Chand, adopted son of Sh. Brahmanand, 1/3rd share was mutated in favour of Sh. Makhan son of Sh. Krishan Chand and 1/3rd share was mutated in favour of Sh. Uday Singh son of Sh. Shiv Chand.

1.2 At this stage, it will be appropriate to draw a family tree to understand their *inter se* relationship of the parties



1.3 The plaintiffs are Sh. Lakhi Ram son of Sh. Inchha Ram son of Sh. Shiv Chand and Sh. Sant Ram son of Sh. Ram Bux son of Sh. Shiv Chand. They claim that Sh. Ramji Lal was owner of 53 kanal and 19 marla land, who died in or about 1959, hence, the property came to the shares of various persons in accordance with Hindu Succession Act, 1956 (in short ‘1956 Act’).

1.4 The defendants have filed separate written statements. Defendant No.7 Sh. Inder Singh claimed that Sh. Ramji Lal died prior to coming into force of 1956 Act. Sh. Inchaa Ram and Sh. Ram Bux never cultivated the land, whereas, Sh. Ude, defendant No.1 has been exclusively cultivating 1/3rd share. Defendant No.20 and 27 claim that Sh. Ramji Lal



entered into a family settlement during his lifetime and gave 1/3rd share to Sh. Hukam Chand, adopted son of Sh. Brahamand, 1/3rd share to Sh. Makhan Lal son of Sh. Krishan Chand and 1/3rd share to Sh. Shiv Chand.

1.5 Upon appreciation of evidence, the trial Court decreed the suit, however, the First Appellate Court has reversed the judgment of the trial Court on the following grounds:-

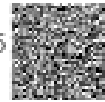
- i. Sh. Inchha Ram and Sh. Ram Bux died before Sh. Ramji Lal.
- ii. The plaintiffs have challenged the mutation of 1/3rd share in favour of Sh. Ude Singh but not challenged the mutation in favour of Sh. Makhan Lal and Sh. Hukam Chand, hence, the suit is not maintainable.
- iii. The defendants have successfully proved that there was a family settlement arrived at during the lifetime of Sh. Ramji Lal, dividing the property.

1.6 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

2. Analysis and Discussion:-

2.1 First of all the findings of the First Appellate Court that Sh. Inchha Ram and Sh. Ram Bux died prior to Sh. Ramji Lal is result of overlooking the material evidence. Death certificates of Sh. Inchha Ram and Ram Bux have been produced, which prove that Sh. Ram Bux died on 07.10.1976, whereas, Sh. Inchha Ram died on 19.02.1979.

2.2 It may be noted here that trial Court held that Sh. Ramji Lal died in 1958-1959 after coming into force of '1956 Act'. The First Appellate Court has not set aside that finding. Learned counsel for the respondent has not challenged the correctness of trial Court's finding that Sh. Ramji Lal



died after coming into force of '1956 Act'.

2.3 Now, with regard to family settlement during the lifetime of Sh. Ramji Lal, it may be noted that there is no entry in any of the revenue record to prove that Sh. Hukam Chand, Sh. Makhan Lal and Sh. Ude Singh were in exclusive possession of 1/3rd share of the property left behind by Sh. Ramji Lal stood divided. Even after the death of Sh. Ramji Lal, the parties were reflected to be in joint possession. Moreover, mutation No.1892, sanctioned in the year 1979 is not on the basis of family settlement. It is on the basis of a natural succession. Moreover, oral evidence of the defendants to prove the family settlement has not been corroborated. The documents prove that all the family members were in joint possession of the property. In fact, the trial Court upon appreciation of evidence has recorded a finding of fact in para 15, which is reproduced as under:-

“15. The onus to prove this issue was on the defendants and they were to prove that Ude (defendant No.1) has been cultivating his suit land throughout his life time. In this behalf the copy of Jamabandi for the year 1978-79 Ex.P.4 indicates that land measuring 17 kanals 14 marlas is shown to be in possession of Ramji Lal to the extent of 1/2 share and Hukam Chand to the extent of remaining 1/2 share land measuring 18 kanal 15 marlas is shown to be in possession of Ude, Ram Baksh, Rampat, Incha Ram s/o Shiv Chand. Land measuring 8 kanal 19 marlas in possession of Lachmi Narain, Haria, Makhan s/o Jai Lal and land measuring 7 kanal 12 marlas in possession of Makhan s/o Kishan Lal and land measuring 54 kanal 18 marla in possession of Hukam Chand. Ude Ram, Ram Baksh, Rampat, Incha Ram are shown in joint possession as Gair Mujara Munshi over killa No.9, Rect. No.13, killa no.17, Rect. 31 and Killa No.21/2, Rect No.53, killa No.12, Rect. No.68, Killa No.13, Rect No.68. Thus, Ude Ram defendant is not shown to be in exclusive possession of those killa numbers. Thus the defendants have failed to prove that Ude Ram cultivating the land of his share through out his life time. Thus this issue is decided accordingly.”

2.4. Learned counsel for the respondents has failed to point out any

2.5 The third ground is also erroneous. The plaintiffs while filing the suit have specifically claimed that the property of Sh. Ramji Lal would be inherited by way of natural succession in the following manner:-

<u>Sr. No.</u>	<u>Share out of the estates of Ramji Lal</u>
Plaintiff No.1	1/36th share
Plaintiff No.2	1/48th share
Defendant No.1	1/12th share
Defendant No.2 and 7 to 16	1/12th share
Defendant No.3 to 6	1/12th share
Defendant No.17	1/12th share
Defendant No.18	1/12th share
Defendant No.19	1/12th share
Defendant No.20 to 24	5/72th share
Defendant No.25 to 30	1/72th share
Defendant No.31 to 33	1/16th share
Defendant No.34 & 35	1/18th share
Defendant No.36 and 37	1/12th share each
Defendant No.38 to 41	1/12th share

2.6. The plaintiffs also prayed that the decree be passed against the defendants to the effect that the mutation No.1892 dated 28.11.1979 is illegal land unlawful. Hence, the plaintiffs have already claimed property on the basis of natural succession.

3. Decision:-

3.1 Thus, the judgment passed by the First Appellate Court is not sustainable. Hence, set aside and that of the trial Court is restored.

3.2 The appeal is allowed accordingly.

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

28th February, 2025

(ANIL KSHETARPAL)
JUDGE

Ay

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No