

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

105

2025:PHHC:042698



**RSA-2017-2001 (O&M)
Date of decision: 28.03.2025**

DHARMA @ DHARAM SINGH

..Appellant

Versus

DHIRA @ RANDHIR AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saket Bhandari, Advocate for the appellant.

Mr. Vikram Singh, Advocate
for respondent No.2 and 3.

ANIL KSHETARPAL, J(Oral)

I. Brief facts:-

1. The plaintiff assails the correctness of the concurrent findings of fact arrived at by the Courts below while dismissing his suit for grant of decree of declaration that judgment and decree passed on 29.05.1992 in favour of the defendants is illegal, null and void. The dispute is with regard to the property of late Sh. Banwari Lal, who died issueless on 20.09.1992 when he was unmarried.
2. The plaintiff is brother of Sh. Banwari Lal, who suffered a consent decree on the basis of family settlement in favour of his two nephew namely Sh. Dhira @ Randhir and Sh. Hawa Singh, who were sons of two brothers Sh. Dhulia and Sh. Baru.
3. The plaintiff claimed that the property was the ancestral co-parcenary property, hence, Sh. Banwari Lal was not entitled to suffer decree. The trial Court as well as First Appellate Court while relying upon para 223 of '*Mulla's Hindu Law*' has held that the property in the hand of the proprietor having no sons is his absolute property and is not ancestral qua his class II heirs namely his brother and children of brother.

**II. Arguments:-**

4. Learned counsel for the appellant has made the following submissions:-

- i. Sh. Banwari Lal was not of sound mind.
- ii. The decree required registration.
- iii. He was not allowed to participate in the alleged family settlement.

III. Analysis and Discussion:-

5. This Court has considered the submissions of learned counsel for the appellant.

6. The appellant has not led any medical evidence to prove that Sh. Banwari Lal was of unsound mind. He not only filed the written statement in the Court but also suffered statement. He also appeared in the Court and admitted the plaintiff's claim.

7. The decree passed by the Court acknowledging the family settlement does not require any registration.

8. The plaintiff cannot claim any pre-existing right in the property.

9. Moreover, Sh. Banwari Lal acknowledged the family settlement while suffering the decree.

IV. Decision:-

10. Consequently, finding no merit, the appeal is dismissed.

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

March 28th, 2025

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

(ANIL KSHETARPAL)
JUDGE