



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1942 of 2024 (O&M)

Date of Decision: 22.01.2025

Melo Kaur alias Gurmeet Kaur

... Appellant(s)

Versus

Harmail Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjeev Kumar Arora, Advocate
for the petitioner(s).

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 correctness of the concurrent findings of fact arrived at by both the Courts below is assailed by the plaintiff in this Regular Second Appeal. She filed a suit for declaration claiming to be the co-sharer to the extent of 1/3rd share in the joint property. Her two brothers contested the suit while claiming that their father, namely Harchand Singh, vide registered Will dated 10.09.2012, had bequeathed the property in their (defendants) favour. The execution of the Will was proved by examining DW.1 Beant Singh and DW.2 Bakhtaur Singh, Scribe. Both the Courts below dismissed

the plaintiff's suit.

4. The learned counsel representing the appellant contends that the property was the Joint Hindu Family Coparcenary Property and hence, Harchand Singh was only entitled to execute the sale deed.

5. This Court has considered the submissions, however, finds no substance therein.

6. It has come on record that the plaintiff's father Harchand Singh had purchased some part of the property vide registered sale deed dated 18.06.1999. Moreover, it has come on record that Harchand Singh had inherited the property by testamentary disposition. Furthermore, there was exchange of some part of the property. Hence, both the Courts below have held that the property is not proved to be the Joint Hindu Family Coparcenary Property.

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

January 22, 2025

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No