

CR-4851-2023 (O&M)

2025:PHHC:025245



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4851-2023 (O&M)

Date of decision : 17.02.2025

Sunita

..... Petitioner

Versus

Sheela Devi & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Suvir Sidhu, Advocate and
Mr. Kamal Gupta, Advocate
for the petitioner.

Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Saket Bhandari, Advocate
for respondents No.1 to 4.

Mr. Nikhil Saini, Advocate for
Mr. Vikram Singh, Advocate
for respondent No.3.

Mr. Sachin Mittal, Advocate and
Mr. Akshat Mittal, Advocate
Mr. Arnav Mittal, Advocate
for respondents No.5 to 13.

Mr. Namit Khurana, Advocate
for respondent No.14.

PANKAJ JAIN, J. (ORAL)

1 Instant revision petition is directed against order dated
07.07.2023 passed by Additional District Judge, Karnal, dismissing the
application filed by the petitioner-plaintiff, upholding order dated
19.04.2023 passed by Civil Judge (Junior Division), Indri, whereby an



application filed under Order XXXIX Rule 1 & 2 CPC by the petitioner-plaintiff was declined.

2 Plaintiff filed a suit seeking decree of declaration to the effect that she is the legal heir and sole successor to the estate of Rajbir who died in 1974. As per the case of the plaintiff, her father Rajbir who succeeded to the estate of Aasa Ram to the extent of 1/4th share left behind widow Som Devi and daughter i.e. the plaintiff. Som Devi remarried Harphool Singh another collateral. Mutation with respect to succession of Rajbir was wrongly sanctioned on 07.09.1975, describing that Rajbir died without leaving behind any wife or child. The estate of deceased Rajbir was mutated in the name of Banarsi and Raghubir both brothers in equal shares.

3 In order to prove her relationship with Rajbir, plaintiff relied upon school leaving certificate, wherein she claimed that she has been mentioned as daughter of Rajbir. Further to prove relationship between Som Devi and Rajbir, reliance is being placed upon voter list and aadhar card.

4 Both the Courts below have non-suited the plaintiff, holding that school leaving certificate being not *per-se* admissible and there being serious discrepancy with respect to voter list as Som Devi has two different votes. Plaintiff does not have a prima-facie case in her favour. Since 1975 there has been no agitation at the hands of Som Devi or plaintiff. Thus balance of convenience also does not lie in favour of the plaintiff. Court further held that the alienation, if any, made by the defendants would be governed by doctrine of *lis pendence* and dismissed the application filed by the petitioner.



5 Mr. Suvir Sidhu, Advocate for the petitioner-plaintiff while assailing the impugned order has drawn attention of this Court to the school leaving certificate of the plaintiff to submit that in terms of the overwhelming documentary evidence on record, the Courts below ought not have non-suited the plaintiff for there being no prima-facie case. He further submits that in all her educational testimonials, plaintiff has been mentioned as daughter of Rajbir and thus being the sole legal heir of Rajbir is entitled to succeed to his estate.

6 *Per contra*, Mr. Ashish Aggarwal, Senior Advocate and Mr. Sachin Mittal, Advocate counsel for the respondents submit that there is no presumption attached to the school leaving certificate. Source of entries made in the school leaving certificate have not been brought on record. Even the story with respect to Som Devi being widow of Rajbir stands exposed as two different votes of Som Devi at Sr.No.29 and Sr. No.30 have come on record. At Sr. No.29 she has been mentioned as wife of Rajbir whereas at Sr. No.30 she has been mentioned as wife of Harphool Singh. Further reference to information obtained under RTI from the office of Gram Panchayat of the village shows that as per information received from Chowkidar/Block Level Officer under the Haryana Panchayti Raj Act, 1994, Som Devi mentioned at Sr. No.29 and Sr. No.30 is the same lady. He thus claimed that plaintiff is nothing but an imposter who has filed the present suit to abuse the process of law and has been able to manipulate voter list for the reason that her husband is working with the office of Election Commissioner. Reference is being further made to certificate issued by Office of District Registrar, Births & Death, who has certified that there is



no entry found with respect to birth of Sunita Devi as daughter of Rajbir for the period commencing from the year 1969 till the year 1971. It has been thus contended that the Courts below have rightly non-suited the plaintiff in the absence of there being any prima-facie case in her favour.

7 I have heard learned counsel for the parties and have gone through records of the case.

8 Though at first blush hyperbole created by the plaintiff on the basis of the documents projected by her seems to be convincing but close scrutiny thereof, reveals that the same is nothing but an illusion. Plaintiff claims herself to be daughter of Rajbir on the basis of a school leaving certificate. Source of the information supplied to school is not forthcoming. At the same time, there is no entry with the Registrar of Births & Death regarding birth of Sunita Devi daughter of Rajbir in the years 1969 to 1971. The aforesaid certificate issued by District Registrar Births & Deaths deflates the whole story being projected by the plaintiff. Regarding voter list and vote of Soma Devi, the less said, the better. Apart from the aforesaid facts, this Court finds that the concurrent findings of fact have been recorded by the Courts below, holding that there is no prima-facie case in favour of the plaintiff, as documents produced on record are bereft of any confidence.

9 Thus the Courts below rightly non-suited the plaintiff finding failed on the first principle of tripod test.

10 Revision stands dismissed.



11 Needless to say nothing stated hereinabove be construed as an

expression on merits of the case.

17.02.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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