



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-142-2020 (O&M)

Date of Decision : 20.08.2025

SURJIT SINGH (SINCE DECEASED) THR LRS Appellants

VERSUS

AMAR SINGH AND ORS Respondents

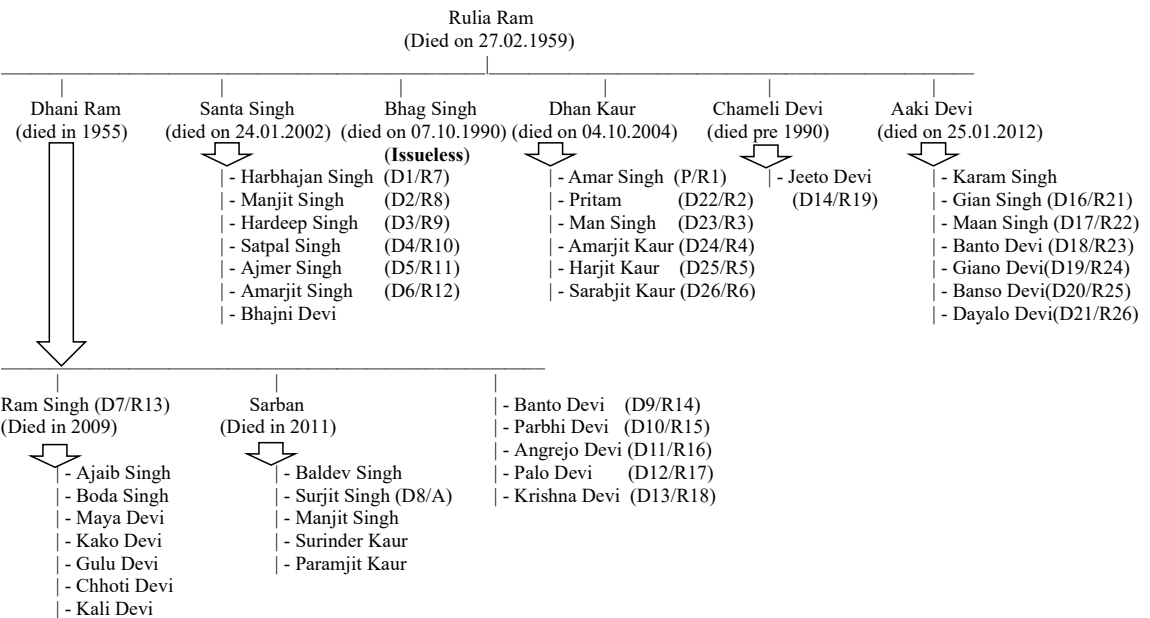
CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhanshu Sharma, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by defendant No.8-appellant herein, namely, Surjit Singh aggrieved by the judgments and decrees passed by the Trial Court dated 07.12.2016 and the First Appellate Court dated 19.07.2019.

2. For a better understanding of the case, a pedigree table is reproduced hereinbelow :



*A denotes Appellant *P denotes Plaintiff *D denotes Defendant *R denotes Respondent

The plaintiff-respondent No.1 filed a suit for declaration to the effect that he along with proforma defendants No.22 to 26 (respondents No.2 to 6 herein) were owners in possession to the extent of 1/3rd share out of the share of Bhag Singh son of Rulia in the land as fully detailed in the plaint. It was averred that Bhag Singh was a Bachelor and died issueless on 07.10.1990 leaving behind Santa Singh, Dhan Kaur and Akki (his siblings) as his legal representatives. Dhani Ram and Chameli predeceased Bhag Singh. It was averred that Ajmer Singh son of Santa Singh had set up a Will alleged to have been executed by Bhag Singh qua which the civil suit was filed against Akki Devi, Dhan Kaur etc. which was dismissed by the Trial Court and the appeal against the said judgment and decree was also dismissed hence it was presumed that Bhag Singh died intestate and hence his siblings would be entitled to the share in his estate. On notice, defendants No.2 to 6 (respondents No.8 to 12 herein) appeared and filed their written statement admitting the claim of the plaintiff-respondent No.1. Defendant No.8-appellant herein filed a separate written statement raising various preliminary objections regarding limitation as also that the suit was totally false and that the mother of the plaintiff-respondent No.1 along with her sisters, namely, Akki Devi and Jeeto have already relinquished their share in favour of the father of defendant No.8-appellant herein and the father of the other defendants i.e. brothers of Bhag Singh.

3. No replication was filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to decree for declaration as prayed by him ? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form ? OPD
3. Whether the suit of the plaintiff is hopelessly time barred ? OPD
4. Whether the plaintiff has not affixed proper court fees ? OPD
5. Relief.

4. The Trial Court vide judgment and decree dated 07.12.2016 decreed the suit of the plaintiff-respondent No.1. Aggrieved by the same an appeal was preferred by the defendant No.8-appellant herein which appeal was dismissed by the First Appellate Court vide judgment and decree dated 19.07.2019. Hence, the present regular second appeal by the defendant No.8-appellant herein.

5. Learned counsel for the defendant No.8-appellant herein would contend that the children of Dhan Kaur i.e. the plaintiff-respondent No.1 and proforma defendants No.22 to 26 (respondents No.2 to 6 herein) had no right in the suit property as she had relinquished her share in favour of the brothers of Bhag Singh including father of the defendant No.8-appellant herein. Learned counsel would further contend that in the earlier suit filed, since Ajmer Singh son of Santa Singh set up a Will dated 14.09.1976 alleged to have been executed by Bhag Singh in favour of Dhan Kaur who was a party

to the said suit and had supported the Will and she did not claim her share in the property, therefore, the present suit itself was not maintainable.

6. Heard.

7. In the present case Bhag Singh died on 07.10.1990 and his brother, namely, Dhani Ram and sister, namely, Chameli Devi predeceased him having died in 1955 and 1990 respectively. Defendant No.8-appellant herein is claiming his right to the property of Bhag Singh through Dhani Ram who had predeceased Bhag Singh. On the death of Bhag Singh a Will had been set up by Ajmer Singh son of Santa Singh which was rejected by the Court. Though Dhan Kaur had supported the case of Ajmer Singh however since the suit itself was dismissed and no findings were returned qua the share or the status of Dhan Kaur *viz-a-viz* the estate of Bhag Singh, it cannot be held that she had relinquished her share in the suit property upon the death of Bhag Singh. In the absence of any Will, Bhag Singh would have to be considered to have died intestate and as per the Hindu Succession Act, 1956 estate of Bhag Singh would devolve firstly upon the heirs being specified in Class-I of the Schedule and secondly, if there is no heir of Class-I, then upon the heirs being specified in Class-II of the Schedule. Brothers and sisters fall in Class-II of the Schedule hence in the absence of any heir falling in Class-I, the property would devolve upon Santa Singh, Dhan Kaur and Akki Devi being alive at the time of death of Bhag Singh hence they would be entitled to the share in his property. Learned counsel for Defendant No.8-appellant has not been able to show as to how the grandchildren of Dhani Ram who had pre-

deceased Bhag Singh would be entitled to his estate. No other argument has been urged.

8. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.08.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*