

2026:PHHC:074174



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

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RSA-1548-2026 (O&M)

Date of decision :12.05.2026

RAJINDER KAUR @ HARJINDER KAUR

... APPELLANT

VERSUS

GURDARSHAN SINGH AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. G.S. Jagpal, Advocate
for the appellant.

PARMOD GOYAL, J. (ORAL)

CM-5609-C-2026

For the reasons mentioned in the application for condonation of delay of 98 days in filing the present appeal, the same is allowed and the delay in filing appeal, is hereby condoned.

Main Case

1. The present regular second appeal has been preferred by appellant-defendant being aggrieved by the judgment and decree dated 28.08.2018 passed by the learned Civil Judge (Junior Division), Jagraon, whereby the suit for declaration filed by the respondents-plaintiffs was decreed. The respondents-plaintiffs were held to be owners in possession in equal shares of the property mentioned in the suit, and the appellant-defendant was permanently restrained from interfering in the ownership and possession of the suit property. The appellant-defendant is further aggrieved by the judgment and decree dated

08.09.2025 passed by the learned Additional District Judge, Ludhiana, whereby the first appeal filed by the appellant-defendant was also dismissed.

2. The case of the respondents-plaintiffs, as set out in their suit, was that they are the sole legal heirs of Swaran Singh, from whom they had inherited the suit property in equal shares. It was further asserted that the defendant was married to Dalbir Singh, son of Swaran Singh, and no child was born from the said wedlock. Dalbir Singh had died on 21.09.1998, and thereafter the defendant remarried, thereby ceasing to be the widow of the predeceased son of Swaran Singh. It was pleaded that upon the death of Swaran Singh in 2015, the suit property devolved upon the respondents- plaintiffs, and accordingly they sought declaration of their ownership as well as a decree of permanent injunction restraining the appellant-defendant from interfering in their possession over the suit property.

3. The appellant-defendant raised several preliminary objections regarding the maintainability of the suit, etc. She claimed that the suit property was ancestral in nature and that Dalbir Singh was one of the coparceners. She further asserted that after the death of her husband, Dalbir Singh, she was not permitted to reside in her matrimonial home and was forcibly ousted without any partition of the property or grant of her husband's share to her. Thereafter, she performed second marriage on 04.06.1999 and claimed that she is entitled to the share of Dalbir Singh in the ancestral property.

4. Both the Courts below have, however, found that the appellant-defendant had no right in the suit property on two grounds: (i) the suit property was not ancestral, but self-acquired property of Swaran Singh, father-in-law of the appellant-defendant and father of the respondents-plaintiffs, which devolved

upon them partly by way of Will (Mark-A and Mark-B), and partly through registered sale deeds; and (ii) upon remarriage of appellant-defendant on 04.06.1999, the defendant ceased to be the widow of Dalbir Singh son of Swaran Singh. Since she was not the widow of Dalbir Singh at the time of death of Swaran Singh i.e. on 21.10.2015, when succession opened, she had no subsisting right in the property, having already remarried 16 years earlier.

5. The learned Appellate Court has rightly concluded as follows:

*“18. Admittedly Swarn Singh father-in-law of appellant died on 21.10.2015. He has died intestate. His widow Piar Kaur also died on 26.07.2013. Death certificates are Ex.P7 and Ex.P8. Thus part of suit property has been inherited by Swaran Singh from his father Mihan Singh and his mother Kartar Kaur vide registered Wills Mark-A and Mark-B respectively. Hon’ble Supreme Court in **Arunachala Mudaliar vs. Muruganatha Mudaliar and another: AIR 1953 (SC) 495 (Vol.40 C.N.123)** has held that*

“In other words, a property gifted or bequeathed by a father to his sons cannot become ancestral property in the hands of the donee or legatee simply by reason of the fact that eh donee or legatee got it from his father or ancestor”.

Swaran Singh father of plaintiffs has purchased remaining suit property vide registered sale deeds Ex.P2 to Ex.P6. Thus suit property has been purchased by Swaran Singh during his own life time. Even otherwise there is no evidence on record that suit property was Hindu Joint Family Property in the hands of Swaran Singh.

19. Schedule attached to Hindu Succession Act 1956 mention list of Class-I and Class-II Legal heirs. As per said list wife of pre-deceased son is Ist Class Legal Heir of deceased. As per death certificate Ex.P16 Swaran Singh died on 21.10.2015. Dalbir Singh husband of appellant died on 21.09.1998. Appellant/defendant claimed that after death of her husband she remarried Harwinder

Singh son of Mukhtiar Singh on 04.06.1999. Swaran Singh father-in-law of appellant/defendant has died on 21.10.2015. Thus on date of death of her father-in-law appellant/defendant Rajinder Kaur was not widow of pre-deceased son of Swaran Singh. She had already married on 04.06.1999 after death of her first husband. Succession of Swaran Singh opened on his death on 21.10.2015. On said date appellant/defendant was not widow of predeceased son of Swaran Singh as she had already re-married on 04.06.1999. Thus on the date of death of Swaran Singh appellant/defendant Rajinder Kaur was not his Ist Class legal heir. So, she cannot claim any succession in estate left by Swaran Singh. Learned Trial Court has thus rightly held that when succession of Swaran Singh opened upon his death on 21.10.2015 then appellant/defendant was not falling in the category of Class-I Legal Heirs of deceased as mentioned in schedule attached with Hindu Succession Act 1956. Therefore no right accrues upon appellant/defendant to succeed to property left by her father-in-law Swaran Singh.”

6. In view of the findings recorded by the learned Courts below, based upon the pleadings as well as the evidence led by the parties, Courts below have rightly held that neither suit property was ancestral nor defendant who had remarried 16 years prior to death of Swaran Singh had any right over the property on the day when succession had opened. I do not find any error in the judgments passed by both the Courts below. The impugned judgments cannot be held to be perverse or erroneous; rather, they are based on proper appreciation of the pleadings and evidence on record. The impugned judgments and decrees are accordingly affirmed. The appeal is found to be without any merit and is, therefore, dismissed.

7. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

12.05.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No5