

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

1. ESA-18-2010 (O&M)
Date of decision: 28.04.2025

BHOOP SINGH (DECEASED) THROUGH LRS. & ORS. ..Appellants

Versus

BHAGWAN DASS AND ORS ..Respondents

2. RSA-5593-2016 (O&M)

BHAGWAN DASS ..Appellants

Versus

BHOOP SINGH AND ORS ..Respondents

3. RSA-1119-2022 (O&M)

BHAGWAN DASS ..Appellant

Versus

BHAGWANI (DECEASED) THROUGH LRS. & ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parvinder Singh, Advocate
for the appellant(s) (in ESA-18-2010)
for respondent(s) (in RSA-5593-2016).

Mr. Sahil Gupta, Advocate (through v.c.)
for respondent No.1 (in ESA-18-2010)

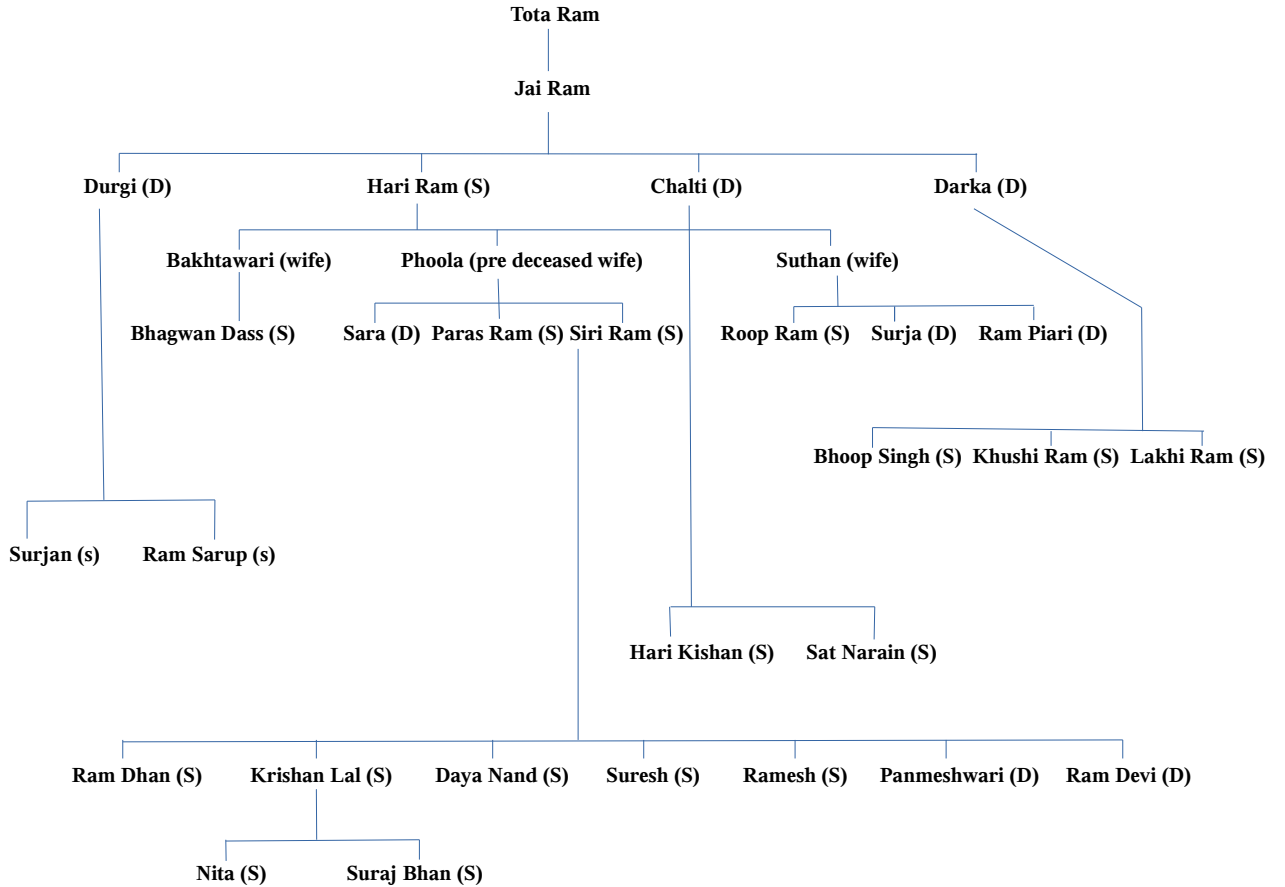
Mr. Ashish Gupta, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. With the consent of learned counsel for the parties, three connected appeals i.e. ESA-18-2010, RSA-5593-2016 and RSA-1119-2022 shall stand disposed of by this common order.



2. The following genealogy illustrates the relationship of the parties:-



3. As is evident Sh. Jai Ram son of Sh. Tota Ram was the common ancestor of the parties. His only son Sh. Hari Ram pre-deceased him. Sh. Jai Ram died on 16.06.1974. Sh. Hari Ram married thrice with Smt. Phoola, Smt. Suthan and Smt. Bakhtawari. When Sh. Jai Ram died, his three daughters namely Smt. Durgi, Smt. Chalti and Smt. Darka were alive.

4. On the basis of an oral gift, allegedly executed by Sh. Jai Ram, the property at village Kutana was entered in the revenue record in favour of his three grand-sons namely Sh. Paras, Siri Ram and Sh. Roop Ram. On 16.06.1974, Sh. Jai Ram died, who was owner of two separate parcels of land, one in village Kutana and second in the area of Rohtak. Sh. Bhagwan Dass and Smt. Bakhtawari filed Civil Suit No.390 of 1997, challenging the mutation sanctioned on the basis of oral gift. Smt. Bakhtawari claimed that she was married with Sh. Hari Ram by way of customary marriage namely



'*karewa*'. The civil suit was dismissed on 07.10.1978, however, the appeal was accepted on 03.01.1981, which in turn was upheld on 14.08.2001 by the High Court in RSA-31-1981.

5. It was held that oral gift was not permissible, hence, the mutation on the basis of oral gift ceased to exist. Consequently, the property continued to be owned by Sh. Jai Ram till his death. Sh. Jai Ram died intestate. Hence, the property would be inherited by his three daughters and heirs of Sh. Hari Ram in equal share. One share would be inherited by Smt. Durgi, whereas, second share would be inherited by heirs of Sh. Hari Ram, whereas, third shall will be inherited by Smt. Chalti and fourth share would be inherited by Smt. Darka. ESA-18-2010 has been filed challenging the correctness of Executing Court's order dismissing objection petition filed by children of all the three daughters. Both the Courts have dismissed their objection petition.

6. The children of three daughters of Sh. Jai Ram filed a civil suit for grant of decree of declaration claiming that judgment and decree passed on 03.01.1981, which in second appeal was affirmed on 14.08.2001, is not binding on them with consequential relief of mandatory and permanent injunction. Both the Courts decreed the suit on the ground that on the death of Sh. Jai Ram, the property will be inherited by natural succession.

7. Sh. Bhagwan Dass son of Sh. Hari Ram filed Civil Suit No.150 of 2013, challenging mutation No.9198-A, sanctioned in the year 1996, pertaining to property left behind by Sh. Hari Ram at Rohtak on the basis of judgment and decree dated 03.01.1981, which has been dismissed by both the Courts below.



8. All the above mentioned circumstance led to the filing of three appeals.

9. Learned counsel appearing on behalf of children of three daughters of Sh. Jai Ram while highlighting the facts as already noticed submits that on Sh. Jai Ram's death on 16.06.1974, the property would devolve upon his heirs in accordance with Section 8 read with Schedule I of the Hindu Succession Act, 1956 (in short '1956 Act').

10. On the other hand, learned counsel for respondents submits that property in the hands of Sh. Jai Ram was coparcenary ancestral property.

11. This Court has considered the submissions of learned counsel for the parties.

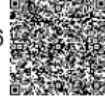
12. It may be noted here that Sh. Bhagwan Dass has failed to prove that the property in the hands of Sh. Jai Ram was joint Hindu family ancestral coparcenary property.

13. Learned counsel for Sh. Bhagwan Dass (respondent No.1) has failed to draw the attention of the Court to any error in such findings of fact.

14. Similarly, in the appeal filed by Sh. Bhagwan Dass against the concurrent findings of fact arrived at by the Courts below against a decree passed in favour of natural heirs of Sh. Jai Ram, learned counsel failed to point out any error.

15. In ESA-18-2010, the objections filed by three daughters of Sh. Jai Ram have been dismissed on the ground that Executing Court cannot go beyond the decree.

16. This Court has considered the submissions.



17. Once, the oral gift is held to be illegal and against law, the property of Sh. Jai Ram would devolve upon his heirs in accordance with Schedule I of the '1956 Act'. There is no dispute that on the death of Sh. Jai Ram, his three daughters and heirs of late Sh. Hari Ram were alive.

18. Sh. Hari Ram is alleged to have died in the year 1954, however, the inheritance of share of Sh. Hari Ram is not in dispute in the present litigation.

19. Consequently, ESA-18-2010 shall stand allowed, whereas, RSA-5593-2016 and RSA-1119-2022 shall stand dismissed.

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

April 28th, 2025

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**(ANIL KSHETARPAL)
JUDGE**

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