



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

135

**RSA-109-2024 (O&M)
Date of decision : 24.02.2025**

Shri Chand (since deceased) th. his LRs **Appellant**

versus

Prakash Wati and others **Respondents**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Jagdish Manchanda, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Plaintiff is in second appeal.
2. The dispute between parties relates to property owned by one Angna, son of Basanti. On death of Angna, the suit property was inherited by his son Dayali. Dayali died leaving behind one daughter Ramkali, who was married to Uddan s/o Chhiman. Ramkali died issueless. Her property was accordingly inherited by Uddan-her husband. Plaintiff claims that after death of Uddan, suit property is inherited by him being class II legal heir of Uddan. The issue regarding succession of the property from Angna till Ramkali is not in dispute. The dispute relates to succession of Ramkali, who died issueless. The plaintiff claims that on death of Ramkali her husband Uddan would succeed to her property. The defendants are legal heirs of Dayali. The question is:

“(i) whether the suit property will go to the husband or to the legal heirs of father of the deceased Ramkali, who died issueless intestate?”



3. In the considered opinion of this Court, the Courts below have rightly held that defendants-the legal heirs of father of Ramkali to be the successors to the property left by Ramkali. Reference can be made to Section 15 of the Hindu Succession Act, 1956 which reads as under:-

“15. General rules of succession in the case of female Hindus.—

(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—

- (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
- (b) secondly, upon the heirs of the husband;
- (c) thirdly, upon the mother and father;
- (d) fourthly, upon the heirs of the father; and
- (e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),—

- (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and
- (b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.”

4. Section 15(2) being a non-obstante clause has an overriding effect over the provision contained under Section 15(1). The position has been further clarified by Section 16 of the 1956 Act which reads as under:-



“16. Order of succession and manner of distribution among heirs of a female Hindu.—

The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestates property among those heirs shall take place according to the following rules, namely:—

Rule 1.—

Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry and those included in the same entry shall take simultaneously.

Rule 2.—

If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own children alive at the time of the intestate’s death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate’s death.

Rule 3.—

The devolution of the property of the intestate on the heirs referred to in clauses (b), (d) and (e) of sub-section (1) and in sub-section (2) to section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father’s or the mother’s or the husband’s as the case may be, and such person had died intestate in respect thereof immediately after the intestate’s death.”

5. In terms of Rule 3, the devolution of the property inherited from father by the hindu female who died intestate has to be in accordance with the rules as would have applied, if the property had been that of father and the father had died intestate in respect thereof immediately after her death. Applying the aforesaid parameter, the succession qua the property inherited by Ramkali from her father Dayali has to be governed by the principles that would be applicable, had Dayali died after Ramkali. Legal fiction has been created for the succession of hindu female dying intestate in order to make sure that the



property reverts back to the source. Source of the property at the hands of Ramkali, being Dayali her father, the same has to revert back to the legal heirs of her father, namely Dayali.

6. In view of above, finding no merits in the present appeal, the same is ordered to be dismissed.

7. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

24.02.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes