



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 14949 of 2018

Date of Decision: 06.03.2025

Smt. Davinder Kaur

... Appellant(s)

Versus

Parambir Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Arun Singla, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The plaintiff assails the correctness of the concurrent findings of facts arrived at by both the Courts below while dismissing her suit for the grant of decree of declaration that she is owner of half share in the land measuring 65 kanals 14 marlas and the judgments and decree dated 25.07.1989 and 25.04.1995 are illegal, null and void and not binding upon her rights.

3. Sohan Singh was the predecessor-in-interest of the parties. He left behind four class-I heirs namely Smt. Ravail Kaur (widow), two sons, namely Sukhbir Singh and Balbir Singh and a daughter, namely

Smt.Davinder Kaur (appellant). On 25.07.1989, the suit filed by Balbir Singh against Sohan Singh and Smt. Ravail Kaur was decreed to the effect that he is the owner of the property. Subsequently, Parambir Singh and Sarabjit Kaur, son and daughter of Sukbhir Singh filed a suit which was decreed on 25.04.1995. Balbir Singh died issueless, hence, Parambir Singh and Sarabjit Kaur claimed the property of their uncle which was decreed. It was declared that they became owners of the property in view of the decree passed on 25.07.1989 in the previous suit.

4. At one stage, the appellant's Regular Second Appeal No. 4540 of 2014 was allowed and the matter was remitted back to the First Appellate Court to decide afresh. The First Appellate Court, after re-examining the matter has again dismissed the appellant's first appeal by an elaborate judgment.

5. The learned counsel representing the appellant contends that the daughter is a member of the coparcenery in view of the recent amendment in Section 6 of the Hindu Succession Act, 1956, hence, she is entitled to have share in the property.

6. This Court has considered the submissions of the learned counsel representing the appellant.

7. It is evident that the appellant has failed to prove that the property is coparcenery property. It would be noted here that the plaintiff has failed to prove that she was the daughter of Sohan Singh and the suit property was coparcenery. While filing the suit, the plaintiff claims that the suit property is a self acquired property. Hence, she cannot take a U-turn and claim that the property is a coparcenary property.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 06, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No