

A PARSHOTAM SINGH (DEAD) THROUGH LRS.
v.
HARBANS KAUR AND ANR.

NOVEMBER 18, 1996

B [K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

Hindu Law:

C *Joint family property—Blended with self-acquired property—
Succession to—'A' had succeeded not only to the property of his grand-
father, but also a part of the property held by his mother—Held, the property
which 'A' inherited from his mother would be his self-acquired property—
But the property succeeded through his grand-father would assume the
character of joint property—The Joint family property still remains to be
the joint family property until it is divided between the heirs of 'A'—
D Appellants being the heirs of 'A' the father of the respondent, they are
entitled to the half share in the property succeeded by A from his grand-
father and the rest of the half share would go to the respondents.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 15067 of
1996.

E From the Judgment and Order dated 26.7.95 of the Punjab and
Haryana High Court in C.M.A. No. 957 of 1995.

P.N. Puri for the Appellant.

F Bimal Roy Jad for the Respondents.

The following Order of the Court was delivered :

G Leave granted.

We have heard learned counsel on both sides.

This appeal by special leave arises from the judgment of the High
Court of Punjab and Haryana at Chandigarh, made on July 26, 1995 in
H RSA No. 575/95.

The admitted position is that one Bakhtawar Singh was the original owner of the property. He died in 1966 leaving behind him his son Harsukhjiti Singh and his widow Pritam Kaur. Pritam Kaur died in 1971. Harsukhjiti Singh has two sons, viz., Parshotam Singh and Lakhmir Singh. The respondents are the widow and sons of Lakhmir Singh and the appellants are the heirs of Parshotam Singh. The appellant-plaintiffs had filed a suit for joint possession and declaration that they are entitled to half the share in the property succeeded by Harsukhjiti Singh. The trial Court dismissed the suit and on appeal it was affirmed by the appellate Court. The High Court dismissed the appeal on the ground of delay. Thus, this appeal by special leave.

On the facts and circumstances, the High Court was not justified in dismissing the appeal on the ground of mere delay. The High Court would have gone into the question of the right to the succession of the property. It is seen that the appellate Court had recorded a finding of fact that Harsukhjiti Singh had succeeded to not only the property of his grandfather but also a part of the property held by his mother, Pritam Kaur. Under these circumstances, the property which he inherited from his mother, Pritam Kaur would be his self-acquired property. But the property succeeded through his grand-father, Bakhtawar Singh would assume the character of joint property. The appellate Court had recorded a finding that since Harsukhjiti Singh had blended his private property and the joint family property, it assumed the character of self-acquired property. Therefore, it is not partible between the appellants and the respondents. The view taken by the appellate Court is clearly wrong in law. Though Harsukhjiti Singh had blended the joint family property with his private property inherited from his mother, the joint family property still remains to be the joint family property until it is divided between the heirs of Harsukhjiti Singh. The appellants being the heirs of the father of the respondents Parshotam Singh, they are entitled to the half share in the property succeeded by Harsukhjiti Singh from his grand-father and the rest of the half share would go to the respondents.

The appeal is, therefore, allowed. The judgments and orders of the appellate Court and the trial Court stand set aside. The suit stands decreed. The matter is remitted to the trial Court for passing final decree in accordance with law. The decree of the trial Court stands restored. But, in the circumstances, without costs.