

(2010) 11 P&H CK 0547

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 3465 of 2009

Smt. Sunita and
Another

APPELLANT

Vs

Pyare Lal and Others

RESPONDENT

Date of Decision: Nov. 8, 2010

Acts Referred:

- Hindu Adoptions and Maintenance Act, 1956 - Section 18, 19, 20, 21, 22

Citation: (2011) 163 PLR 817

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

This is second appeal by Plaintiffs-Appellants Sunita and her minor daughter Sahiba having failed in both the courts below.

2. Respondents No. 1 and 2 are parents of Anil Kumar (since deceased), whereas Respondent No. 3 is sister of Anil Kumar. Appellants are widow and minor daughter respectively of Anil Kumar. Appellants filed petition under Sections 19 and 21 of the Hindu Adoptions and Maintenance Act, 1956 (in short - the Act), claiming maintenance of Rs. 5,000/- per month and also claiming right of inheritance in House No. 224-R, Model Town, Karnal, with right of accommodation and residence in the said house.

3. The Appellants alleged that Anil Kumar was serving in Municipal Corporation, Delhi and thereafter in Army. He spent huge amount on renovation and construction of the disputed house. Compensation given by Defence Authorities on the death of Anil Kumar has been shared by Respondents No. 1 and 2 to the extent of half share, with the Appellants getting half share only. The disputed house is registered in the name of Respondent No. 2 (mother of Anil Kumar). However, the

said house is joint property of Appellants and Respondents No. 1 and 2. Appellant No. 1 is not in a position to maintain herself as well as her minor daughter Appellant No. 2 out of her meager pension being received by the Appellants qua the services of Anil Kumar. The Appellants have no house to live in. They are living in the house of father of Appellant No. 1 as licensees.

4. Respondents No. 1 and 2 contested the petition. Relationship between the parties was not disputed. However, other averments of the Appellants were controverted. It was pleaded that disputed House No. 224-R was purchased by Respondent No. 2 vide registered sale deed dated 27.05.1970 and thereafter, only minor repairs were carried out in it. Anil Kumar was the only son of Respondents No. 1 and 2. After his death, Appellants remained in the matrimonial home till 12.01.1999, when parents and brothers of Appellant No. 1 took the Appellants with them. Appellant No. 1 got various amounts after the death of Anil Kumar. Some fixed deposits are also lying with the Appellants. Appellant No. 1 is also getting family pension. She is also working as teacher in a school. Respondents No. 1 and 2 have also deposited various amounts in the name of Appellant No. 2, who would get Rs. 17,00,000/- on attaining the age of majority. Various other pleas were also raised.

5. Learned Civil Judge (Junior Division), Karnal, vide judgment and decree dated 23.02.2007, dismissed the petition filed by the Appellants. First appeal filed by the Appellants was also dismissed by learned Additional District Judge, Karnal, vide judgment and decree dated 18.12.2008. Feeling aggrieved, the instant second appeal has been preferred by the Appellants.

6. I have heard learned Counsel for the Appellants and perused the case file.

7. Appellant No. 1 admitted in cross-examination that she has been given compassionate appointment in Municipal Corporation, Delhi on the death of her husband and as such, she was serving as Lower Division Clerk and getting Rs. 6,000/- per month as salary. She was also receiving Rs. 4,200/- as pension of her deceased husband. She also received Rs. 2,00,000/- as compensation from the employer of her husband. She also received Rs. 5,00,000/- as insurance money of her husband. Father of Appellant No. 1 has also transferred a house in the name of Appellant No. 1. She has also received payments of fixed deposits of her husband and certain other bonds are also in her possession. Father of Appellant No. 1 has admitted that he has transferred a house in the name of Appellant No. 1. He has also admitted that he has 22 acres land and he is a cloth merchant. On the other hand, the disputed House No. 224-R is proved to be self-acquired property of Respondents No. 1 and 2. They also have no income except pension of Rs. 10,756/- being received by Respondent No. 1, who is a retired person.

8. In view of above admitted and proved facts, the Appellants have no right to claim maintenance from Respondents No. 1 and 2 or right of residence in the disputed house. u/s 18 of the Act, a Hindu wife can claim maintenance from her husband.

However, under this provision, Appellant No. 1 cannot claim maintenance from Respondents No. 1 and 2, who are parents-in-law of Appellant No. 1.

9. u/s 19 of the Act, a Hindu wife can claim maintenance from her father-in-law after the death of her husband, provided and to the extent that she is unable to maintain herself and this right shall not be enforceable if father-in-law has no means to do so from coparcenary property. In the instant case, Respondent No. 1 - father-in-law is not possessed of any coparcenary property so as to provide maintenance to Appellant No. 1. Consequently, under Sections 18 and 19 of the Act, Appellant No. 1 is not entitled to claim any maintenance from Respondents No. 1 and 2.

10. As regards Appellant No. 2, u/s 20 of the Act, she is not entitled to claim any maintenance from Respondents No. 1 and 2, who are her grandparents because under this provision, a Hindu is bound to maintain his or her children or aged or infirm parents. Even under Sections 21 and 22 of the Act, Appellant No. 2 is not entitled to claim maintenance from Respondents No. 1 and 2 because Respondents No. 1 and 2 have not inherited any estate from their deceased son Anil Kumar. Even otherwise, Respondents No. 1 and 2 have no source of income except meager pension of Respondent No. 1, who is retired at present. On the other hand, Appellants have sufficient means to maintain themselves as Appellant No. 1 has got job as Clerk in Municipal Corporation, Delhi and is also receiving family pension of her deceased husband. Appellant No. 1 has also been given a house by her own father. Appellant No. 1 can also seek maintenance from her own father.

11. In view of the aforesaid, there is no infirmity much less illegality or perversity in the judgments of the courts below. Concurrent finding recorded by the courts below against the Appellants is fully justified by the material on record and is supported by cogent reasons. No question of law, much less substantial question of law, arises for determination in the instant second appeal. The appeal is completely frivolous and meritless and is accordingly dismissed in limine.