

Ganender Pal Singh Vs. Mehtab Singh and Others

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Court : Delhi

Decided On : Feb-08-2000

Reported in : 2000VIAD(Delhi)162; 84(2000)DLT836

Judge : Mukul Mudgal, J.

Appeal No. : Suit No. 374 of 1993

Appellant : Ganender Pal Singh

Respondent : Mehtab Singh and Others

Judgement :

ORDER

Suit 374/93

1. In so far as the preliminary issue directed to be heard by this Court's order dated 16th March, 1999 is concerned whether a son can file a suit for partition of HUF property during the life-time of his father, the learned Counsel for the plaintiff has relied upon a judgment of the Hon'ble Division Bench of Court which is reported as Nanak Chand & Ors. Vs . Chander Kishore & Ors., : AIR1982 Delhi520 wherein it has been held as follows:

'The other contention that came up for consideration was whether in the life-time of the father, the sons could ask for partition or not. At one time a view was prevalent that in Delhi like Punjab they could not do so. It was based upon some custom,

vide Hari Kishan v. Chadu Lal, AIR 1918 Lah. 291 and Sri Ram v. Collector, AIR 1942 Lah. 173. But since the decision of this Court of 26.10.1967 in Khushwant Rai v. Dr. Jagmohan Lal, RFA 1- D/59 and 24-D of 1959, it is now no more in controversy that the son can ask partition from the father during his life-time. We do not, therefore, propose to dilate any more on this issue.'

2. The aforesaid decision of the Division Bench of this Court binds this Court. Mr. Suri, the learned Counsel, appearing on behalf of defendants 1 & 3-5 very fairly states that this preliminary issue is covered by the aforesaid judgment of the Hon'ble Division Bench of this Court.

3. In this view of the matter, this preliminary issue is decided in favor of the plaintiff to the effect that in view of the aforesaid judgment of the Division Bench of this Court in Nanak Chand & Ors. v. Chander Kishore & Ors. (Supra), the suit for partition of HUF property by a son in his father's life-time is maintainable.

List this matter on 7.3.2000.

is 8652/98 in S. No. 374/93

On the request of the learned Counsel for the defendants, the matter is adjourned to 7.3.2000.

Matter to be listed on 7.3.2000.

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