



2025:DHC:8103-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on:10.09.2025

Judgment pronounced on:16.09.2025

+ **FAO(OS) 112/2022, CM APPL. 43928/2022 & CM APPL. 48660/2025**

HARJIT SINGH KOCHHAR

.....Appellant

Through: **Mr. Siddharth Yadav, Sr. Adv.**
with **Mr. Narender Lodiwal,**
Adv.

versus

TEJ ARJUN SINGH KOCHHAR & ORS.Respondents

Through: **Mr. Ranvir Singh, Md. Absar**
Ahmad, Ms. Shruti Sharma,
Mr. Himanshu Yadav, Mr.
Sandeep Sain, Advs. for R-1
Mr. Pratyush Sharma, Mr.
Binish Kumar, Advs. for R-3
Mr. Divye Chugh, Ms. Priya
Wadhwa, Mr. Angel
Bharadwaj, Ms. Hazel
Bharadwaj, Advs. for R-5

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

1. The present Appeal, preferred by the Appellant [Defendant No.1 before the learned Single Judge], assails the correctness of the order dated 07.09.2022 [hereinafter referred to as "Impugned Order"] whereby the learned Single Judge allowed the application under Order I Rule 10 of the Code of Civil Procedure, 1908 [hereinafter referred to

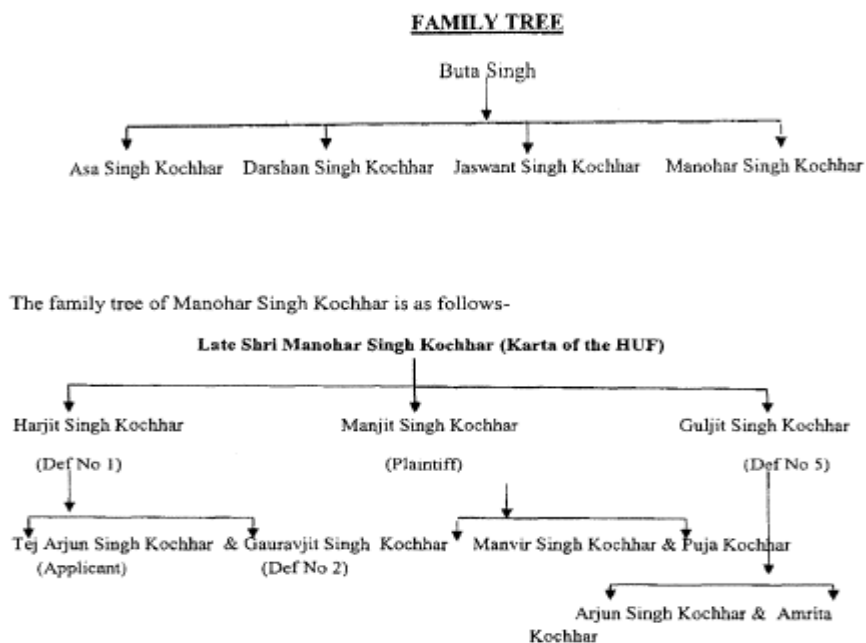


as “CPC”] filed by Sh. Tej Arjun Singh Kochhar, Respondent No. 1 [applicant before the learned Single Judge], seeking his impleadment as a Defendant in the pending suit filed by Respondent No.2 [Plaintiff before the learned Single Judge].

FACTUAL MATRIX

2. In order to appreciate the issues arising for consideration in the present Appeal, it is necessary to briefly notice the relevant facts.

3. The genealogy of the family, as set out in the application filed by the Respondent No.1 under Order I Rule 10 CPC, is reproduced below:-



From the above genealogy, it is apparent that late Sh. Manohar Singh Kochhar is the common ancestor, with the Appellant/Defendant No. 1 and Respondent No. 2/Plaintiff, being his sons, and Respondent No. 1



being his grandson.

4. Respondent No.2 filed a suit seeking declaration, permanent injunction, rendition of accounts and partition in respect of property bearing No.71, First Floor, Sunder Nagar, New Delhi [hereinafter referred to as “suit property”] asserting that the same forms part of the Hindu Undivided Family [hereinafter referred to as “HUF”] of late Sh. Manohar Singh Kochhar. Respondent No.1, in support of his claim for impleadment, asserted that he is a coparcener in the HUF by virtue of being the grandson of late Sh. Manohar Singh Kochhar. In order to appreciate the nature of the claim, reference may be made to paragraphs 1, 6, 8, and 10 of the plaint which are extracted as under:-

“1. That the present suit is being filed by the plaintiff, who is the legal representative of Late S. Manohar Singh Kochhar and coparcener in the HUF of Late Sh. Manohar Singh Kochhar, his Father. Defendant No.1 and defendant No.5 are the other two legal representatives of Late S. Manohar Singh Kochhar being real brothers of the Plaintiff. Defendant No.2 is son of defendant No.1, who has been illegally shown as partner of a firm Central Service Station, an HUF along with Defendant No. 1, which was never dissolved and partitioned. Defendant No.3 is the petroleum company, with which, the HUF of Late S. Manohar Singh, father of the Plaintiff and Defendant No. 1 and 5, had a petrol pump in the name of Central Service Station at E-24, Connaught Place, New Delhi.

6. That from the funds generated from the joint family liquor shop of B. Dadabhoy, Chandni Chowk, Delhi, joint family was able to purchase and make four houses in Sunder Nagar, New Delhi for each of the four brothers. As the father of the plaintiff, S. Manohar Singh was the youngest son of S. Buta Singh, he got the last house, i.e., 71, Sunder Nagar, New Delhi. This plot was purchased from Smt. Kamla Devi for a total consideration Rs.22,500/-. This consideration amount was paid from the joint family business of B. Dadabhoy by cheque bearing No.340039 dated 18.01.1956 drawn on Punjab National Bank, Chandni Chowk, Delhi. This account was of the joint family business B. Dadabhoy. The plot was purchased in the name of the plaintiff's



father, S. Manohar Singh. The other three brothers purchased plot Nos. 124, 126 and 144.

8. It is submitted that the father of the plaintiff S. Manohar Singh, who had constituted HUF under him, subsequently, commenced business of a petrol pump under the name and style of 'Central Service Station', HUF at E-24, Connaught Place, New Delhi in 1956 with himself as Karta. It is submitted that though the property bearing No. 71, Sunder Nagar, New Delhi was purchased in the name of S. Manohar Singh, the same was from the funds of the joint family business and S. Manohar Singh himself created the HUF in the year 1956 and placed the said property in the HUF. These facts are also borne out from an undertaking dated 5th June 2002 given to the Chief Manager, Hindustan Petroleum Ltd, Jeewan Bharti Building, New Delhi of Defendant No. 3 by Late S. Manohar Singh. Copy of the undertaking dated 5th June 2002 is annexed as **Annexure P-2**.

10. It is submitted that sometime in 2001, defendant No.1 got certain blank papers signed from the plaintiff, which included some stamp papers stating that they were required to be submitted to defendant No.3 for the purpose of completing certain formalities. Plaintiff, having faith in his elder brother and his father being alive, gave the said documents signed in blank in good faith. It is submitted that it was discovered by the plaintiff that the said blank signed documents have been used illegally in order to illegally convert the HUF into partnership concern by undue influence upon the Late father of the plaintiff. The said fact was discovered by the plaintiff only upon moving a RTI application to defendant No.3. Even though, the business was in the name of the HUF, it seems that defendant No.1 and 2 cajoled the father of the plaintiff to write it as sole proprietorship under their undue influence, even though, the business was in the name of the HUF. It is submitted that the language of the said document, i.e., undertaking dated 22nd October 2001 clearly reflects the same to be a fabricated document, which has been fabricated after taking the signatures of the plaintiff on blank papers. Copy of the affidavit dated 22nd October, 2001 is annexed as **Annexure P-3**."

5. Respondent No. 1 is the son of the Appellant. Claiming to be a coparcener in the HUF of late Sh. Manohar Singh Kochhar and asserting that he is in occupation of the suit property in such capacity,



Respondent No. 1 moved an application under Order I Rule 10 CPC seeking his impleadment as a Defendant in the suit for partition instituted by Respondent No. 2. The said application was opposed by the Appellant/Defendant No. 1.

6. Upon consideration of the rival submissions, the learned Single Judge, *vide* the Impugned Order dated 07.09.2022, allowed the application and directed that Respondent No. 1 be impleaded as Defendant No. 6 in the pending suit. It is this Order which is assailed in the present Appeal.

CONTENTIONS OF THE APPELLANT

7. Learned senior counsel representing the Appellant submitted that during the lifetime of the Appellant, his son, Respondent No.1 herein, has no independent or existing right in the suit property. Any rights, if at all, would accrue only through the Appellant, and not directly in his own capacity.

8. It was further contended that under Section 8 of the Hindu Succession Act, 1956 [hereinafter referred to as “the Act”], a grandson, during the lifetime of his father, is not included in the category of Class-I heirs. Consequently, the estate of Late Sh. Manohar Singh Kochhar would devolve by succession and not by survivorship, and Respondent No.1 cannot claim coparcenary rights therein.

9. On this premise, it was urged that Respondent No.1 has no independent right in the subject property, and is neither a necessary



nor a proper party to the proceedings.

10. In support of the aforesaid submissions, reliance was placed upon the following judgments to contend that property devolving under Section 8 of the Act does not retain the character of HUF property, and further, that grandchildren are excluded from the category of Class-I heirs:-

- (i) ***Commissioner of Wealth Tax Kanpur and Others vs. Chander Sen and Others***, (1986) 3 SCC 567.
- (ii) ***Yudhishter vs. Ashok Kumar***, (1987) 1 SCC 204.
- (iii) ***Bharat Bhushan Maggon vs. Joginder Lal and Other***, (2012) SCC OnLine Del 5418.
- (iv) ***Uttam vs. Saubhag Singh and Ors.***, AIR 2016 SC 1169.
- (v) ***Radha Bai vs. Ram Narayan and Ors.***, (2020) 19 SCC 513.
- (vi) ***Shri Neeraj Bhatia vs. Shri Ravindra Kumar Bhatia & Ors.***, (FAO(OS) No. 70/2024).
- (vii) ***Jai Narain Mathur & Ors. Vs. Jai Prakash Mathur***, (2016) SCC Online Del 986.

CONTENTIONS OF THE RESPONDENT

11. *Per contra*, learned counsel representing the Respondent No.1 supported the Impugned Order and submitted that at this stage, the Court is not required to adjudicate upon the substantive rights of the parties in the estate. It was urged that the limited question before the learned Single Judge was with respect to impleadment, and the same has been rightly allowed to ensure complete and effective adjudication of the dispute.



12. It was contended that the presence of Respondent No.1, who is admittedly residing in the suit property and claims an interest therein, would assist in avoiding multiplicity of proceedings and conflicting decisions.

13. It was further urged that impleadment at this stage does not confer any final rights upon Respondent No.1, and all questions of title and succession remain open for determination at the appropriate stage.

ANALYSIS & FINDINGS

14. This Court has considered the rival submissions advanced on behalf of the parties and carefully examined the record. At the outset, it is apposite to note that under Hindu law, the character of the property, whether self-acquired or coparcenary, determines the mode of devolution. While a Hindu Undivided Family is recognized as a separate taxable unit under the Income Tax Act, 1961, in Hindu law the crucial distinction is between coparcenary property, joint family property and self-acquired property. The pleadings of Respondent No.2 specifically employ the expression “*Karta*” in paragraph 8 of the plaint, thereby asserting that Late Sh. Manohar Singh Kochhar held the suit property as Karta of an HUF. The suit being at a nascent stage, the Court, while considering an application under Order I Rule 10 CPC, is not to finally decide the substantive rights of the parties but only to form a *prima facie* opinion as to whether the presence of the applicant is necessary or proper for effective adjudication.

15. The plaint, on its plain reading, proceeds on the footing that the



suit property constitutes joint family coparcenary property, having been purchased from joint family funds and thrown into the common stock by late Sh. Manohar Singh Kochhar. If that assertion is ultimately established, Respondent No.1, being the son of the Appellant, would be a coparcener entitled to seek partition. In such circumstances, exclusion of Respondent No.1 would inevitably result in an incomplete adjudication and expose the parties to multiplicity of proceedings. On the other hand, if the property is ultimately found to be self-acquired and devolving under Section 8 of the Act, Respondent No.1's claim may not survive. However, such determination can only be made after trial.

16. It must, therefore, be emphasised that at the stage of impleadment, the Court does not adjudicate upon the status of the property, whether self-acquired, coparcenary or joint Hindu family. That question can only be decided after evidence is led. For present purposes, the only inquiry is whether Respondent No.1's presence would aid in the complete and effective adjudication of the controversy.

17. Turning to the judgments relied upon by the Appellant:

i. In **Chander Sen** (supra), the issue arose under the Wealth Tax Act and Income Tax Act, where the Court was concerned with the character of property devolving under Section 8 of the Act. The questions referred at paras 4–5 pertained to whether certain amounts could be assessed in the hands of an HUF. Paragraphs 4 and 5 read as under:-



“4. The following question was referred to the High Court for its opinion :

Whether, on the facts and in the circumstances of the case, the conclusion of the Tribunal that the sum of Rs 1,85,043 and RS 1,82,742 did not constitute the assets of the assessee-Hindu undivided family is correct?

5. Similarly in the reference under the Income Tax Act, the following question was referred :

Whether, on the facts and in the circumstances of the case, the interest of Rs 23,330 is allowable deduction in the computation of the business profits of the assessee-joint family?”

The ratio therein, being in the context of fiscal statutes, does not advance the Appellant’s contention at the stage of impleadment.

ii. In ***Yudhishter*** (supra), the Supreme Court dealt with a landlord–tenant dispute and the jurisdiction of the appellate authority to admit additional evidence. The observations on succession under Section 8 were made in a different context, and cannot be determinative here.

iii. In ***Bharat Bhushan Maggon*** (supra), the issue related to impleadment application under Order I Rule 10 of the CPC coupled with amendment of pleadings under Order VI Rule 17 of the CPC, where the Court ultimately held that the suit itself was barred. The factual and legal matrix was materially different, and the decision does not assist the Appellant.

iv. In ***Uttam*** (supra), the Supreme Court considered the scope of the proviso to Section 6 of the Act. The decision was rendered after trial on merits, and is not applicable at the interlocutory stage of impleadment.

v. In ***Radha Bai*** (supra), the Court was dealing with a post-partition situation where the suit property had fallen to the exclusive



share of one coparcener, and was subsequently transferred. The appeal arose from a final decree, and thus, the ratio cannot govern the present proceedings.

vi. Similarly, the reliance placed on *Shri Neeraj Bhatia* (supra) and *Jai Narain Mathur* (supra) is misplaced, as both arose in materially distinct factual contexts and after adjudication on merits, and hence do not govern the present stage of proceedings.

18. The second argument advanced on behalf of the Appellant is equally devoid of merit. Unless and until a clear finding is recorded with respect to the character of the suit property, it would be premature for this Court to hold whether the same devolves by succession under Section 8 of the Act or by survivorship under Section 6.

19. For the same reason, the third submission urged on behalf of the Appellant also fails to carry weight and is rejected.

20. As regards the final contention, it needs emphasis that at this stage the Court is only concerned with determining whether the suit property prima facie partakes the character of Joint Hindu Family coparcenary property or not.

21. Respondent No.1, being the son of the Appellant, would be treated as a coparcener if the property is ultimately found to be coparcenary in nature. In such a scenario, his presence is necessary for complete and effective adjudication. Importantly, the present order merely permits Respondent No.1 to be impleaded as Defendant No.6, without conferring upon him any substantive rights, which shall be



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decided at the appropriate stage.

22. In view of the foregoing discussion, no ground is made out to interfere with the Impugned Order. The present Appeal, along with all pending applications, is accordingly dismissed.

23. It is, however, clarified that the learned Single Judge shall proceed to adjudicate the suit on its own merits, uninfluenced by any observations contained either in the Impugned Order or by this Court.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

SEPTEMBER 16, 2025/sp/sg/pl