

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.1323 of 2006 (O&M)
Date of Decision: July 15, 2015**

Harjeet Singh

.... Appellant

vs.

General Public and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Appellant Harjeet Singh along with his counsel
Mr. Harnek Singh.

Mr. Kanwaljeet Singh, Senior Advocate with
Mr. Vikram Gupta, Advocate for the respondents.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment? Yes*
- 2. To be referred to the Reporters or not? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Kuldip Singh J.(Oral)

This order of mine will dispose of FAO No.1323 of 2006.

Impugned in the present appeal is the order dated 06.10.2005 passed by learned Addl. District Judge, Jagadhri, vide which his petition for issuance of letter of administration on the basis of Will dated 04.09.1982 executed by his father Mohinder Singh, was dismissed.

The factual matrix of the case is that Mohinder Singh (deceased) was the owner of a plot measuring 300 sq. yard situated at Railway Road, Jagdhari and one half share in a plot measuring 23 kanals, 7 marlas situated at Ambala Bilaspur Road, Jagadhri. It is

stated that on 04.09.1982, Mohinder Singh (now deceased) executed an unregistered Will in favour of Harjeet Singh (present appellant), who was minor at that time, disinheriting his second son Rajwant Singh, his wife Mohinder Kaur as well as six daughters. The Will is stated to have been attested by Malik Chand Sethi and Ved Parkash Chopra. Both of them are now dead. Mohinder Singh himself died on 10.06.1983. The present appellant filed present petition in the year 2003 i.e. 20 years after the death of his father Mohinder Singh claiming the letter of administration.

The brother of the present appellant namely Rajwant Singh contested the petition and denied the execution of the Will in question. The sisters as well as mother of the present appellant also contested the petition on the similar ground.

From the pleadings, following issues were framed:

“1.) Whether the petitioner is entitled to letter of Administration of the Estate of late Sh. Mohinder Singh on the basis of Will dated 4.9.1982?OPP.

2.) Relief.”

Learned Addl. District Judge, Jagadhri came to the conclusion that the Will is a suspicious document and cannot be relied upon. It was further held that the Will is not proved in accordance with law. Consequently, the petition was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

I fully agree with the view taken by the learned Addl.

District Judge, Jagadhri.

Learned counsel for the appellant has stated that date of birth of the present appellant is 21.12.1971. That means that at the time of execution of the Will in question, he was only 11 years old. Mohinder Singh is stated to have died on 10.06.1983. The appellant became major in the year 1989. Thus, there is no reason as to why he waited for 14 years to file the petition for issuance of letter of administration.

His plea before the lower court that the Will in question was found lying in the box, was rightly disbelieved by the lower court.

In this case, both the attesting witnesses of the Will are dead. It is unregistered Will. The name of the scribe is not known. Even the signatures of the deceased were not got compared to prove that the Will bears the signature of the deceased (Mohinder Singh).

Further, learned Addl. District Judge, Jagadhri held that the Will is shrouded with suspicion. The deceased disinherited his wife, his second son and six daughters without any reason.

It is not the case that wife and the son were living separately. Wife was at least looking after the present appellant, who was minor at that time. Even though, some allowance can be given to the present appellant on account of the fact that there is tendency in this part of country to exclude the daughters from the succession. But even than, there is absolutely no reason why the deceased disinherited his wife, who was living with him and looking after his children including present appellant and other son Rajwant Singh.

The deceased was only 52 years of age at the time of execution of the Will. There is no evidence to prove that he was suffering from any disease which made him to execute a will at the young age of 52 years. Further, it is found that in the year 1998, some land was acquired and the present appellant got the compensation of his share without claiming any Will. Further, it also comes out on record that the parties entered into a family settlement dated 15.01.1996 (Ex.R-1), wherein some property was given to the present appellant.

It being so, I am of the view that learned Addl. District Judge, Jagadhri has rightly held that the Will in question is a suspicious document. It is not proved in accordance with law and cannot be acted upon.

Consequently, I do not find any merit in the present appeal. The same is, accordingly, dismissed.

July 15, 2015
sarita

(KULDIP SINGH)
JUDGE