

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

**RSA No.1289 of 2010 (O&M)  
Date of decision: 28.09.2015**

Tej Kaur  
Vs. ... Appellant

Manjit Kaur and another ... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. H.N.S.Gill, Advocate  
for the appellant.

Mr. Mahavir Sandhu, Advocate  
for the respondents.

**AMIT RAWAL J. (Oral)**

Challenge in the present appeal is to the concurrent finding of facts and law, whereby, the suit for declaration, claiming ownership in the property of deceased - Inderjit Singh, as per Will dated 20.01.1994, has been dismissed, by both the Courts below. Appellant-plaintiff, is none else, but mother of deceased, Inderjit Singh.

Mr. H.N.S.Gill, learned counsel appearing on behalf of the appellant-plaintiff submits, that Inderjit Singh, right from the childhood was suffering from ailment and never intended to get married but on insistence by relatives, got married. The entire family was staying in

Canada. Since he was not keeping good health, he executed a Will dated 20.01.1994 and unfortunately died on 02.07.1997. However, prior to death, i.e., during interregnum, he got married to Manjit Kaur. Out of the said wedlock, minor child was also born. On account of death, property was mutated on the basis of the Will, thereafter, the same was challenged and the mutation was entered on the basis of the inheritance, i.e., by way of natural succession. He further submits that both the Courts below have committed illegality and perversity in discarding the Will on the ground that it was surrounded by suspicious circumstances. Thus, submits that substantial questions of law arise to be determined by this Court.

Mr. Mahavir Sandhu, learned counsel appearing on behalf of the respondents submits, that Will has rightly been found suffering from suspicious circumstances, as no particulars of the witnesses and scribe were given in the plaint. The particulars were introduced for the first time at the time of evidence. Even the plaint is silent about the particulars or alleged illness of deceased - Inderjit Singh, much less, no ailment has been proved on record.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of both the Courts below.

It is a matter of record that at the time of mutation, Tej Kaur, plaintiff did not disclose about the existence of the Will, aforementioned. The Will has seen the light of the day only when the

suit was filed. Both the Courts below found that Will was wanting requirement of Section 63(C) of the Indian Succession Act. None of the witnesses have stated that Inderjit Singh appended his thumb impression/signature in their presence and vice-versa. The plaintiff has failed to prove the factum that minor daughter was born from the loin of Manjit Kaur and deceased Inderjit Singh. It is also a matter of record that Manjit Kaur, is none else, but wife of deceased Inderjit Singh. Thus, both the Courts below found, that mutation of inheritance to the extent of 1/3<sup>rd</sup> share each, on the basis of the natural succession is correct. There is no illegality and perversity in the finding rendered by both the Courts below, much less, no substantial question of law arises to be adjudicated by this Court.

Accordingly, the appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**September 28, 2015**  
savita