

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

RSA No.3870 of 2011 (O&M)
Date of decision : 22.01.2015

Gurcharan Kaur @ Charan Kaur

...Appellant

Versus

Jaswinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajan Bansal, Advocate
for the appellant.

AMIT RAWAL, J. (Oral)

This Regular Second Appeal is directed at the instance of appellant-plaintiff against the judgments and decrees of both the Courts below, whereby the suit of the appellant-plaintiff for declaration and permanent injunction claiming the ownership qua the share of Bant Singh who is stated to be the brother of appellant-plaintiff and died on 24.01.2003, has been dismissed by the trial Court and the appeal filed against the said judgment and decree had also been dismissed.

The respondents-defendants set up a registered Will dated 22.01.2003 of Bant Singh. Learned counsel appearing on behalf of the appellant-plaintiff in support of his submission contends that the Will

dated 22.01.2003 was surrounded by suspicious circumstances inasmuch as that Bant Singh was admitted in the hospital on 18.01.2003 and unfortunately expired on 24.01.2003.

In order to prove the aforementioned facts, the appellant-plaintiff had summoned witnesses from the concerned hospital. He further contends that the Will includes shaky signatures of Bant Singh and will does not disclose that Gurcharan Kaur has been excluded from the devolution of property owned by the testator.

I am afraid that the aforementioned arguments, sans, merit and do not hold any substance, for the reasons, that the witnesses of the hospital did not utter a word as what kind of ailment Bant Singh was suffering from. In a mutation proceedings, appellant-plaintiff Gurcharan Kaur had appeared as PW4 and admitted the signatures of Bant Singh on the Will. Even last rites of Bant Singh was performed by the defendants. The plaintiff failed to discharge burden much less onus to disprove the Will by leading any evidence in rebuttal. Even bed head ticket of the Bant Singh was not produced by the appellant-plaintiff. The witnesses to the Will have confirmed the requirements of Section 16-C of the Indian Succession Act and there is no rebuttal evidence to that effect.

Both the Courts below have rendered the findings of the fact and law.

There is no illegality and perversity in the findings recorded by the Courts below which is based on the facts and the law.

No substantial question of law arises for adjudication of the present appeal.

Accordingly, the present appeal is dismissed.

22.01.2015

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**(AMIT RAWAL)
JUDGE**