

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

RSA No.1691 of 2012 (O&M)

Date of Decision: November 27, 2015

Sohan Lal

.... Appellant

vs.

Raj Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Madan Pal, Advocate for the appellant.

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

Kuldip Singh J.(Oral)

CM-4620-C-2012

There is delay of 33 days in refiling the present appeal.

For the reasons mentioned in the application, supported by an affidavit, delay of 33 days in refiling the present appeal is condoned, subject to all just exception.

Application stands disposed of.

RSA-1691-2012

Impugned in the present regular second appeal is the judgment and decree dated 03.10.2011 passed by learned Addl. District Judge, Karnal, affirming the judgment and decree dated 22.10.2009 passed by learned Civil Judge (Jr. Divn.), Karnal, vide which the suit of the plaintiff for permanent injunction was dismissed.

The plaintiff had filed a suit against his brother, sisters and mother for restraining them from interfering in his peaceful possession over the disputed house or dispossessing him claiming that house was owned by his father Bishna Ram, who died on 16.12.2003. He further claimed that he is in possession of the disputed house on the basis of an unregistered Will dated 13.12.2003 executed by Bishna Ram in favour of the plaintiff. He had further claimed that thereafter, his mother was forcibly taken away by defendant Nos.1 to 7. The lower court held that the Will in question is suspicious, which was executed three days before the death of Bishna Ram. It was also held that the plaintiff has failed to prove his possession over the disputed house. Consequently, the suit was dismissed and the findings were upheld in appeal.

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

It comes out that the suit is for simple injunction. The plaintiff has not sought declaration that he has become the owner of the house in question on the basis of Will dated 13.12.2003. That would mean that the property will go by natural succession and all the brothers, sisters and mother of the plaintiff will also become co-sharer in the said house.

It being so, no injunction can be issued against the co-sharer. Moreover, there are concurrent findings of both the courts below holding that the Will dated 13.12.2003 is suspicious document and the plaintiff had failed to prove his exclusive possession over the

disputed house. It appears that after the death of his father, the plaintiff became greedy and wanted to deprive his seven brothers and sisters and his mother of any right, title or interest in the house owned by his father Bishna Ram. His mother Rajni Devi had died during the pendency of the suit. The relief of injunction is otherwise discretionary relief and is not to be granted in such like cases.

Hence, the present regular second appeal stands dismissed.

November 27, 2015
sarita

(KULDIP SINGH)
JUDGE