

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4817 of 2011 (O&M)

Date of Decision: 27.4.2015

Dev

.....Appellant

versus

Gurmit Kaur and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Atul Goel, Advocate for the appellant.

RAJIV NARAIN RAINA, J. (Oral)

Validity of the Will dated 23.2.1965 has been upheld in the earlier round of litigation which has attained finality. Those proceedings were initiated by a civil suit filed by Gurmit Kaur, mother of the appellant Dev son of Darshan Singh.

Darshan Singh, maternal grand father of the appellant before this Court, executed a Will on 23.2.1965 in favour of grand son with respect to his estate. The Will was contested. The plaintiff's mother Gurmit Kaur was not party to that suit. She filed a subsequent suit challenging the Will which was decreed on 1.10.1983 and the Will propounded by the present appellant was discarded and is not binding on the rights of the mother. That decree has attained finality. Not satisfied with the proceedings in the second suit, the son initiated the third round of litigation claiming separate possession of the suit corpus which has been dismissed by both the Courts

below. Once the Will stands discarded the question of joint possession of the property of the mother does not arise as it then falls in her exclusive share. No ground to interfere in the second appeal is made out as no question of law much less, substantial, arises for consideration of this Court.

The appeal fails and is dismissed.

(Rajiv Narain Raina)

Judge

27.4.2015

Meenu