

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

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Regular Second Appeal No.2561 of 2012 (O&M)
Date of Decision: August 21, 2015

Durga Dass and another

...Appellants

Versus

Jaswant Rai and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ranjit Saini, Advocate
for the appellants.

Mr. R.S. Chauhan and
Mr. Sanjeev Manhas, Advocates
for caveators-respondents No.4 to 6.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Present is an appeal preferred against the judgments and decree passed by the Courts below, by which the suit preferred by the appellants-plaintiffs for declaration and permanent injunction, stands dismissed on the ground that the appellants-plaintiffs have failed to prove that the Will dated 22.08.1991, which has been executed in favour of the respondents-defendants 4 to 6, pertains to the ancestral land and that the same has not been executed by the executant Shri Sant Ram deceased.

2. It is the contention of the counsel for the appellants-plaintiffs that some of the subject land in the Will is ancestral land, which was in the name of Rellu Ram. He contends that in the stand, which has been taken by the respondents-defendants, it has been clearly mentioned that some land was bought in the name of Rellu Ram by Sant Ram while he was in service as a teacher. He contends that since Rellu Ram died in the year 1955, the land would have been inherited by Sant Ram and, therefore, he was not entitled to and eligible to execute the Will qua the said land.

3. The counsel, however, is unable to identify the said land or specify in the pleadings with regard to the said land, which either was inherited by Sant Ram or had been purchased by Sant Ram in the name of Rellu Ram.

4. The findings, which have been returned by the Courts below being concurrent and based upon the evidence, which has been led by the parties, leaves no manner of doubt that the appellants-plaintiffs have not been able to establish the non-execution of the Will or that it was a product of fraud or its execution was not in accordance with the requirement of the statute nor have they been able to prove that the land, which was acquired in the name of Rellu Ram had existed or had been inherited by them.

5. Counsel for the respondents-defendants, at the time of arguments, have categorically, on instructions, stated that no land was inherited by Sant Ram from Rellu Ram and the Will pertains to self-acquired land of Sant Ram.

6. In the light of the statement made by counsel for the respondents-defendants and the findings recorded by the Courts below, there is no merit in the present appeal, same, therefore, stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.7113-C of 2012, also stands dismissed.

August 21, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE