

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.666 of 2012 (O&M)
Date of Decision.25.08.2015

Santosh Rani alias Saroj Rani and another

.....Appellants

Versus

Seema Rani and others

.....Respondents

Present: Mr. Abhikesh, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The plaintiffs' grievance in the suit is that one of the dependents had not been granted adequate share. The plaintiffs' own exclusion is not an issue but the issue is that a son who was a coparcener had not been preferred. The issue is of a Will executed by the father preferring a bequest in favour of two unmarried daughters to the exclusion of son and the plaintiffs-daughters, who are married. The Court was examining the issue of whether the Will was suspicious and found that the registered Will which had been proved through examination of witnesses which had made specific recital about why the plaintiffs had not been granted any share. He had made reference to the fact in the Will that they had been married of with sufficient expenses and they had been happily living in their respective familial homes. He had, therefore, made bequest to the unmarried daughters

and also made a specific reference to son who was said to be a simpleton and he was being taken care of by the daughters and the father therefore, made a bequest in favour of two unmarried daughters. The trial Court found the disposition to be natural and coupled with the proof that the Will came to be proved through the evidence of witnesses, dismissed the plaintiffs' suit. The same reasoning was affirmed in appeal.

2. The second appeal is at the instance of the plaintiffs who state that the Courts below had not appropriately considered the issue that the son had not been granted any share and there was no specific reason given as to why the son was being disinherited or why two unmarried daughters had been given preference. I find the explanation obtains in the recital of the Will itself which the Courts below have considered that the son was a simpleton and was being taken care of by the daughters and therefore, he would make the benefit of Will to two daughters who are unmarried and make no benefit to the son and married daughters who had been married of in respectable families and were living happily in their respective families where they had been married to. I find that the suspicion which was sought to be taken was appropriately addressed by the two Courts below by making reference to the recitals in the Will itself.

3. Further argument by the counsel is that the property was ancestral and all the persons who are entitled to the property must have been served with notices of mutation. His complaint is that none of them had not been served with notices. I find the issue of whether notice had been served in the mutation to be wholly irrelevant, for, we

are considering the genuineness of the Will. Plaintiffs themselves as daughters will have no right in the ancestral property as per the law existing before the amendment in the Hindu Succession Act in the year 2005 and if the right of the father in the property has been bequeathed by means of Will, it is irrelevant that the persons who are entitled to the property had not served with notices of mutation. Mutation proceedings on the basis of the Will are only incidental in the sense that it makes possible an inference that there had been a publicity given to the Will and the persons who knew about such Will must take appropriate steps to either confirm or deny the Will. Here is a case where the plaintiffs have come to Court denying the Will and it has been found by the Courts that the Will has been appropriately established.

4. I find nothing substantial for consideration in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

August 25, 2015
Pankaj*