

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

Regular Second Appeal No.3984 of 2013 (O&M)
Date of decision: 01.09.2015

Jora Singh

... Appellant

versus

Sher Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Sudhir Nar, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The plaintiff, who filed a suit claiming 1/4th share as per the Will alleged to have been executed by the mother on 05.03.2000, lost the suit on a defence that the mother had earlier executed two other Wills, one on 31.01.1975 and the second one on 16.06.1997, revoking the earlier Will. The second Will of the year 1997 was registered and the mother had expressed that the plaintiff was a Sarpanch in the village and he had created enough difficulties for her and had even taken possession of her own properties and not allowing her to enjoy it peacefully. The mother died on 15.01.2001 but even before the death of the mother, it appears the brothers were

fighting for the mother's estate and there was an agreement effected between the plaintiff and the defendants on 21.02.2000, under the terms of which, the plaintiff admitted to the execution of a registered Will by the mother in the year 1997. A witness to the document dated 21.02.2000 was also examined as DW3 who gave evidence that the plaintiff knew about the Will propounded by the defendant during her lifetime and it was brought about to quell disputes between the quarreling siblings.

2. The plaintiff and the defendants respectively brought witnesses to speak about the execution and attestation of the Wills propounded by them. The court found the Will propounded by the plaintiff to be grossly artificial and it was most unlikely that the mother who had every reason to disinherit him on two previous occasions could have thought of executing the Will on 05.03.2000 before her death in favour of the plaintiff, especially after an agreement between the plaintiff and the defendants. It upheld the registered Will in favour of the defendants and dismissed the suit. The trial Court also made observations of the fact that the plaintiff was criminally prosecuted for forging the Will dated 05.03.2000 propounded by him and convicted for the offence of forgery. The appellate court confirmed the judgment.

3. Apart from reiterating the submissions made before the courts below, which were rejected, the counsel for the appellant

argues that if he intended to forge a Will, he would have taken the entire bequest from his mother and the fact that the Will provides only for 1/4th share ought to be taken as a testimony for its genuineness. I find such an argument to be illogical, for, a person who was crafty enough to believe that he would make a Will sound and natural but lost out in his ability to prove the genuineness and the improbability of the mother making a Will in favour of the plaintiff against whom she has a serious grouse, there can be no virtue about the Will that it did not grant the entire bequest to the plaintiff. The two courts have considered the case regarding the genuineness of the Wills propounded by parties in their correct perspective and drawn appropriate inferences which are essentially questions of fact and an appraisal of what is normal human conduct. I find no scope for interference in this second appeal. Second appeal is dismissed as involving no substantial question of law.

(K.KANNAN)
JUDGE

01.09.2015
sanjeev