

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

RSA No.4439 of 2013 (O&M)

Date of Decision.19.09.2015

Smt. Bai

.....Appellant

Versus

Bhani Devi and others

.....Respondents

Present: Mr. Babbar Bhan, Advocate
for the appellant.

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. Delay of 51 days in filing the appeal is condoned.
2. The plaintiff is the appellant who claimed a right as heir at law along with the defendants to the estate of Mani Ram. The plaintiff was the brother's daughter. The defendants were the sons of yet another brother of the deceased. They set up a Will said to have been executed by Mani Ram on 29.03.1994. The contention of the plaintiff was that Mani Ram had died on 28.03.1994 and the Will propounded by the defendants cannot be true. The defendants contended that Mani Ram died on 30.03.1994. The plaintiff's suit was dismissed and in the appeal, it was remitted for consideration of whether a document relied on by the plaintiff namely a register said to have been maintained by the Chowkidar of the village recording the date of birth of Mani Ram as 28.03.1994 was true or not. The Court discarded the value of the evidence by reference to the fact that the Chowkidar had himself not

made entry in the register but it was said to have been done by one Raghubir. The appraisal went to great length by reference to the fact that Raghubir was himself not examined and he had taken the register from the Chowkidar on some pretext and made a false entry as though Mani Ram died on 28.3.1994. The Court, therefore, did not believe the evidence of the Chowkidar and held that Mani Ram had died on 29.03.1994 as spoken to by the defendants. About the fact whether the disposition could have been natural, the Court also considered the fact that even prior to the suit, Mani Ram himself had suffered a decree allowing for the estate to be claimed by the defendants. The Court, therefore, reasoned that the Court literally followed the previous intent declared before the Court and found nothing unnatural about the disposition.

3. The reasonings of the Courts below are perfectly valid and require no intervention in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 19, 2015
Pankaj*