

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

RSA No.4868 of 2013 (O&M)

Date of Decision.16.11.2015

Nishan Singh

.....Appellant

Versus

Smt. Joginder Kaur

.....Respondent

Present: Mr. Surinder Pal Singh Tinna, 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. The second appeal is at the instance of the plaintiff whose suit claiming right to the property under a Will said to have been executed by his father Subeg Singh through an instrument dated 12.06.2003 was dismissed. The defendant was the mother and she had propounded a Will which was said to have been executed subsequently on 21.03.2006 in terms of which the testator had revoked the earlier Will that provided for equal distribution of the share between the son and the widow and made a preference only to the widow by the subsequent Will reciting the fact that the son was not taking care of him and therefore, he made only his wife the beneficiary. He also had made a reference to the three daughters and he had also stated in the Will that he had made adequate provisions for them at the time of their respective marriages and therefore, he was making the wife the sole beneficiary.

2. The only point which was urged was that the Will was executed one day before the death and therefore, he was not in a sound disposition of mind. The trial Court observed that the identity of the person who had gone before the Registrar's office was admitted and the execution could not be disputed by virtue of the fact that the registration endorsement showed the affixture of the photographs of the testator and also of the witnesses and the evidence supported the mental capacity of the executant to make the Will in favour of his wife. The Court found that there was adequate reason for disinheritance of the son and found nothing suspicious about the Will and upheld the same. The Appellate Court confirmed the judgment, reiterating the observations of the trial Court and had also observed that the plaintiff had not brought out anything substantial for dislodging the appreciation of evidence carried out by the trial Court.

3. Before this Court, the plaintiff makes no point except the fact that the Will had been executed only one day prior to his death and it could not be acted upon. I am not impressed by the plea made, for the Courts below have given cogent reasons as to how the Will propounded by the widow as having subsequently been done in sound disposition of mind and there was nothing to merit accepting the plaintiff's contention. I must observe that even the daughters had not been made parties and they did not appear to have supported the plaintiff's action making the claim for the property as heir to the father. If the daughters would also support the widow, for at least they did not support the plaintiff, I would find that there was nothing artificial about the Will as made by the father Subeg Singh and the dismissal of the suit

by the two Courts below would require no interference. I find nothing substantial for consideration as point of law in the second appeal and dismiss the same.

(K. KANNAN)
JUDGE

November 16, 2015
Pankaj*