

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 217 of 2015
Date of decision: September 11, 2015

Subhash Chand and others

.....Appellants

Versus

Smt. Santosh Girdhar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anil Kumar Rana, Advocate for
Mr. Lokesh Sinhal, Advocate
for the appellants.

Amit Rawal, J (oral).

The present appeal, at the instance of appellants-defendants Nos. 6 to 9, is against the concurrent finding of fact whereby the suit filed by the respondents-plaintiff to the effect that they are absolute owners of the land measuring 21 Kanals 17 Marlas has been decreed and the appellants-defendant Nos. 6 to 9 have been restrained from interfering in the peaceful possession and enjoyment of the plaintiffs over the suit land and the counter claim filed on the basis of the Will dated 14.10.1988 by the appellants-defendant Nos. 6 to 9 has been dismissed.

Learned counsel appearing on behalf of the appellants submits that as per Will dated 14.10.1988 executed by Ram Lal in respect of land aforementioned, no reasons have been assigned for altering the line of succession as all the appellants/defendants are born from the first wife, whereas, the Will

has been executed in favour of second wife, therefore, both the courts below have committed illegality and perversity in rendering the finding against the appellants-defendants No. 6 to 9 and in favour of respondents-plaintiffs. He further submits that substantial question of law arise for determination by this Court.

I have heard learned counsel for the appellants and appraised the paper book.

It is a matter of record that the Will aforementioned has been proved through the testimony of attesting witnesses as well as in conformity with the provisions of Section 63 of the Indian Succession Act, 1925.

It is now a settled law that the testator in respect of his self acquired property can always alter the line of succession bequeathing the property to any person. The instant is a case, where the beneficiary is none else but second wife of the testator. Subhash Grover, PW-1, a witness to the Will has unequivocally made deposition in line with the provisions of Section 63 of the Indian Succession Act, 1925 and stated that the contents of Will were read over and explained to the testator and testator signed in his presence and he also signed in testator's presence. There has also been compliance of provisions of Section 68 of the Indian Evidence Act, 1872.

Both the Courts below have rendered a finding of fact and law after appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 11 , 2015
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