

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2932 of 2015 (O&M)
Date of decision : November 19, 2015

Gurmej Kaur and others

..... Appellants

Versus

Rajwant Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. A. S. Bhatti, Advocate
for the appellants.

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?

Amit Rawal, J (oral).
CM No. 7089-C of 2015

This is an application under Section 5 of Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 32 days in filing the appeal is condoned.

The application stands disposed of.

CM No.7088-C of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 411 days in refiling the

appeal is condoned.

The application stands disposed of.

RSA No. 2932 of 2015 (O&M)

The appellants-plaintiffs are in Regular Second Appeal against the concurrent finding of fact whereby the suit for declaration and permanent injunction claiming share in the estate of Mehar Singh has been dismissed.

Admittedly, the appellants-plaintiffs are daughters of Mehar Singh who have filed the suit against their sister Sarabjit Kaur who acquired interest in the property owing to the registered Will dated 29.10.1999 executed by Mehar Singh in favour of Maan Kaur and Maan Kaur after the death of Mehar Singh transferred the property in favour of Sarabjit Kaur.

He further submits that the Will has not been proved as the Will was not registered and Mehar Singh was suffering from mental health so he could not give away his property in favour of Maan Kaur. The only grievance is that plaintiffs are claiming 1/6th share, thus prays that both the courts below have committed illegality and perversity in dismissing the suit.

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

Once Maan Kaur by virtue of Will dated 29.10.1999 acquired ownership she had become absolute owner in terms of Section 14 (1) of Hindu Succession Act, 1956 and therefore she was well within her right to alienate or transfer the property in anybody's name and in her wisdom transferred the property in the name of one

of the daughters by ignoring the other daughters.

In my view, it was self acquired property of Mehar Singh, therefore the appellants-plaintiffs cannot claim their share being daughters of Maan Kaur. Even the alleged mental health of Mehar Singh has not been proved on record. The Will has been proved to through the testimony of attesting witness DW-3. Even the scribe has also deposed in terms of Section 63 (C) of the Indian Succession Act, 1925.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

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

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

November 19 , 2015
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