

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

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**RSA No.3569 of 2015 (O&M)
Date of Decision-14.10.2015**

CHARANJIV SINGH

Appellant

Versus

STATE OF PUNJAB & ORS

Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.K.S. Brar, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Plaintiff claimed retiral benefits of one Amarjit Singh claiming himself to be his nephew. Will dated 10.12.1993 has been set up to claim the aforesaid retiral benefits. Initially, dispute was with one Baljinder Kaur alleged adopted daughter of Amarjit Singh. That litigation, ultimately, culminated in compromise and Baljinder Kaur received Rs.50,000/- from the Department.

[2]. Both the Courts have taken note of the Will which was registered after the death of Amarjit Singh and execution of the same has not been proved in terms of Section 68 of Evidence Act. Neither relative of deceased Amarjit Singh has been impleaded nor general public was impleaded so as to give public notice to all concerned in order to invite objection qua the claim of the plaintiff. Documents Ex.P6 and Ex.P7 nowhere hold the plaintiff to be heir of Amarjit Singh in any

manner. Even the evidence in terms of Ex.P6 and Ex.P7 does not advance the case of the plaintiff in the context of heirship of the deceased Amarjit Singh.

[3]. Since the plaintiff claims his right on the basis of Will, it was obligated upon the plaintiff to prove execution of Will. Plaintiff cannot take benefit of weaknesses of defendants' case. The Will is of the year 1993 and the suit came to be filed only on 05.12.2011. Under Section 3 of the Limitation Act, an onerous duty was on the Civil Court to see whether suit was within limitation or not? Even if the Court did not see the limitation part at the time of filing of the suit still the plea being legal in nature can be appreciated at any stage of litigation.

[4]. Looking from any angle, the claim of the plaintiff on the basis of unproved Will is not sustainable. No law point worth consideration is involved. Consequently, the present appeal is dismissed.

October 14, 2015
prince

(RAJ MOHAN SINGH)
JUDGE