

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

RSA No.2948 of 2014 (O&M)

Date of Decision: September 22, 2015

Sardara Singh

.... Appellant

vs.

Veero and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. H.S. Rakhra, Advocate for the appellant.

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present regular second appeal is the order dated 17.03.2014 passed by learned Addl. District Judge, Tarn Taran, affirming the judgment dated 05.05.2009 passed by learned Civil Judge (Sr. Divn.), Tarn Taran, vide which the suit of the plaintiff for declaration and permanent injunction was dismissed.

The plaintiff had filed a suit for declaration to the effect that he is the owner of 268/335 share in the land measuring 138 kanals, 17 marlas, situated in the revenue estate of village Kot Dosandhi Mal, Tehsil Tarn Taran on the basis of registered Will dated 14.06.1994 executed by his brother Mohan Singh (since deceased) in his favour and the mutation of the inheritance sanctioned in favour of defendant No.1-Veero, widow of Mohan Singh is illegal. Permanent injunction was also sought.

It was also claimed that defendant No.1-Veero has further sold the suit land vide sale deed dated 23.08.2001 to her nephew-defendant No.2 and wife of her nephew-defendant No.3 and that the said vendees had further sold the suit land to defendant Nos.4 to 6 vide sale deed dated 05.03.2002. The said sale deeds are without consideration and are liable to be set aside.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The lower court discarded the registered Will dated 14.06.1994 primarily on the ground that the deceased was living with his wife in separate house. The husband and wife had joint account and had their ration card and voter cards. The plaintiff had failed to prove that he was serving his brother Mohan Singh (deceased).

It was further noticed that Mohan Singh (deceased) had two litigation pending with the plaintiff. One is for the partition and other is civil suit filed by Mohan Singh to protect his title. Therefore, it was held that there is no reason to believe the Will vide which the wife of Mohan Singh was discarded. The statement of attesting witnesses was disbelieved. Consequently, the suit of the plaintiff was dismissed.

It was further noticed that the plaintiff was not in possession of the suit land and he has not made any prayer for the possession in the suit land and the suit in the present form is also not maintainable.

Admittedly, in this case, no specific issue has been framed regarding the sale deed and the Will.

Both the parties had led their evidence and the court has discussed the same in the main issue No.1 “whether the plaintiff is entitled to the relief of declaration as prayed for? The findings were affirmed in appeal.

I am of the view that both the courts have recorded the findings of facts. Even on merits, the Will is highly suspicious. There is no reason as to why the wife was discarded. There is no proof that the plaintiff was rendering any service to his brother Mohan Singh. Rather there is a proof that he was having litigation with his brother. Therefore, there was no reason for Mohan Singh to execute the Will in favour of his brother by excluding his wife.

It being so, no substantial question of law arises in the present appeal.

Hence, the present appeal stands dismissed.

September 22, 2015
sarita

(KULDIP SINGH)
JUDGE