

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

**Regular Second Appeal No.3659 of 2014 (O&M)
Date of decision : 07.04.2015**

Narain Singh ...Appellant
versus

Smt. Inderwati & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kulbhushan Sharma, Advocate for the appellant.

RITU BAHRI, J (Oral)

The appellant/plaintiff challenges judgments and decrees dated 15.10.2010 passed by the Civil Judge (Jr. Div.) Palwal and 15.03.2014 passed by the Additional District Judge, Palwal, whereby his suit and appeal were dismissed.

The dispute in the present case was between the plaintiff Narain Singh son of Udai Pal and Inderwati daughter of Udai Pal. Udai Pal had executed a 'Will' dated 09.02.1982 (Ex.PW4/A) in favour of the plaintiff Narain Singh and defendant No.3 Sewak Ram. By way of second 'Will' dated 05.03.1983 (Ex.DW5/B) in favour of his daughter Inderwati excluding all other legal heirs. The execution of the 'Will' dated 09.02.1982 (Ex.PW4/A) was duly proved by the plaintiff by examining Ram Karan PW4, who was the attesting witness of the 'Will' dated 09.02.1982 (Ex.PW4/A), PW5 Khajan Singh Patwari, who proved jamabandi for the year 2001-02 as Ex.PW5/A,

photocopy of mutation No.9831 as Ex.PW5/B and mutation No.19085 as Ex.PW5/C. Another witness PW6 Shree Bhagwan RC also proved execution of the 'Will' dated 09.02.1982 (Ex.PW4/A). As regards the second 'Will' dated 05.03.1983 (Ex.DW5/B), the executor Udai Pal had mentioned about his earlier 'Will' dated 09.02.1982, which was executed in favour of all his sons only. He further stated that the property which was subject matter of the 'Will' dated 05.03.1983 was 16/127th share was a plot which was 16/127th share which was purchased by him vide registered sale deed dated 03.01.1983. He made the 'Will' with regard to the said property in favour of his daughter Inderwati excluding all the legal heirs. The execution of this 'Will' was duly proved by the deposition of DW2 Tuhi Ram writer of the 'Will', DW5 Sher Singh, who proved the execution of the 'Will' dated 05.03.1983. DW6 Sewak Ram brother of Inderwati appeared and in his examination-in-chief Ex.PW5/A proved the fact that the disputed property was a residential house of his sister Inderwati and his brother in law Devpal. She has constructed this house in the year 1988 and the land was purchased by his father Udai Pal and lease deed was executed in his favour by Sita Ram. Udai Pal had informed him with regard to execution of 'Will' in favour of Inderwati. Husband of Inderwati appeared as DW7 and narrated the above said facts. Plaintiff challenging the 'Will' dated 05.03.1983 was unable to lead any evidence to prove that the execution of the 'Will' was made on the ground of misrepresentation. There was no evidence led to show that

the executor Udai Pal was not in a fit and sound state of mind when he signed the 'Will' dated 05.03.1983. The defendants did not deny the execution of the 'Will' dated 09.02.1982 in favour of his sons excluding the daughters. The defendants had led sufficient evidence that the 'Will' dated 05.03.1983 had been duly executed and was not surrounded by any suspicion and as per the provision of the Section 68 of the Evidence Act by the deposition of DW2 Tuhi Ram the writer of the 'Will' and DW5 Sher Singh.

In view of the above stated facts, no substantial question of law arises for consideration before this Court.

Dismissed.

07.04.2015
Vinay

(RITU BAHRI)
JUDGE