

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

RSA No.4339 of 2014 (O&M)

Date of Decision: October 08, 2015

Smt. Chanchal Kumari Bhardwaj

.... Appellant

vs.

Smt. Santosh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Ashok Kumar Khubbar, 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)

Challenged in the present regular second appeal is the judgment and decree dated 16.05.2014 passed by learned Addl. District Judge, Panchkula, affirming the judgment and decree dated 24.05.2013 passed by learned Addl. Civil Judge (Sr. Divn.), Kalka, vide which the suit of the plaintiff for declaration was dismissed.

In short, the plaintiff claims that her father-in-law Iqbal Chand had purchased the property measuring 10 biswas, situated at village Kanuwal, vide registered sale deed No.339, dated 14.07.1977. The disputed property is a plot measuring 10 biswas. She claims that her father-in-law executed an unregistered Will dated 02.10.1988 in her favour to the exclusion of his two sons and one daughter including the husband of the plaintiff. Iqbal Chand died in the year 1991. The present suit was instituted on 05.08.2008 to claim the title of the property on the basis of unregistered Will.

The lower court held that Will in question is a suspicious document and therefore, discarded the same. Consequently, the suit was dismissed. The findings were upheld in the appeal.

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

First of all, it is to be noticed that the Will was found to be a suspicious document by the lower court. The Will was typed one and there are signatures of the testator. Only witness examined in this case is Nagar Mal Gupta (PW1), who failed to tell the name of the scribe. Even, the plaintiff also could not tell the name of the scribe. The lower court observed that no satisfactory explanation has been advanced by the plaintiff in order to justify such unnatural exclusion of all the legal heirs. Although, it is mentioned in the Will that the plot was purchased by Surender Kumar, husband of the plaintiff in the name of testator. However, though Surender Kumar, husband of the plaintiff was the party to the case and filed written statement but he did not enter into the witness box to state that he had paid the sale consideration and for what reason the Will was executed in favour of his wife. Even though, there is no reason as to why the Will was not directly executed in favour of Surender Kumar, husband of the plaintiff.

The fact is that even after the death of testator, the plaintiff remained mum for nearly 17 years. She kept the unregistered Will with her and filed the suit after 17 years despite the fact that the entries in the revenue record were made on the basis of natural

succession.

The findings of the facts have been recorded by both the courts below. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

October 08, 2015
sarita

(KULDIP SINGH)
JUDGE