

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4774 of 2014(O&M)
Date of decision: 29.09.2015

Santokh Singh

... Appellant

Versus

Manjit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Anil Chawla, Advocate for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? YES
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Suit filed by the plaintiff was dismissed by the trial court vide judgment and decree dated 07.02.2013. As even the appeal preferred against the said decree failed and was dismissed vide judgment dated 28.02.2014, plaintiff is before this court in this regular second appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In a suit filed by the plaintiff, he prayed for a declaration that he was the owner in possession of the land measuring 104 kanals 10 marlas, comprised in different khasra numbers duly depicted in the plaint, situated in the revenue estate of Jagdev Kalan, Tehsil Ajnala, District Amritsar. And, mutation No.5860, sanctioned by the Assistant

Collector, First Grade, Ajnala, in favour of defendants No.9, 11 & 12, on the basis of the Will dated 20.04.1995, was illegal and void.

Concededly, the suit property was owned by the father of the plaintiff, namely, Karnail Singh. Plaintiff claimed himself to be the owner of the suit property, pursuant to a Will dated 05.08.1991 that was allegedly executed by late Karnail Singh. However, vide another Will dated 20.04.1995, assailed by the plaintiff in the suit, late Karnail Singh had bequeathed his estate in favour of his grandson, namely, Satnam Singh (minor) son of Jagir Singh (defendant No.9), to the extent of $\frac{1}{2}$ share, and defendants No.11 & 12, namely, Bhupinder Singh and Charanjit Singh, sons of the plaintiff, qua the rest half share.

Both the courts below, on a due and comprehensive consideration of the matter in issue and the evidence on record, concurrently concluded that deceased Karnail Singh had two daughters and three sons, namely, Balbir Singh, Jagir Singh and Santokh Singh (plaintiff), and of which Balbir Singh had died issueless about 22 years ago. Whereas, Jagir Singh, father of Satnam Singh minor (defendant No.9), was not heard of for about four years from the date of execution of the Will dated 20.04.1995. No reason was assigned in the Will dated 05.08.1991 (Ex.P1) as to why the testator had ignored his other son, daughters and grandsons and bequeathed his

entire estate only in favour of the plaintiff. In fact, in the said Will, there was/is no reference to the other son and daughters of the deceased. Attesting witnesses of the said Will were from Amritsar and were not the residents of village Jagdev Kalan where the suit property was situated. Likewise, the Will dated 05.08.1991 was registered at Amritsar. That being so, it was concluded that the Will propounded by the plaintiff was surrounded by suspicious circumstances. Concededly, Karnail Singh died on 09.06.1995 and if indeed he had executed a Will dated 05.08.1991, plaintiff would have approached the revenue authorities to have the suit property mutated in his favour. Whereas, the present suit was filed on 11.12.2001 i.e. after over six years of the death of Karnail Singh. In fact, immediately after the institution of the present suit, plaintiff moved the revenue authorities as well for sanctioning of the mutation and defendants had brought on record, copies of the orders passed by the revenue courts, Ex.D1 to Ex.D3, vide which the Will dated 20.04.1995, was upheld and the Will dated 05.08.1991 propounded by the plaintiff was ignored. And pursuant to the Will dated 20.04.1995, the suit property had been mutated in favour of defendants No.9, 11 & 12, vide mutation No.5860. No appeal was even preferred by the plaintiff against the order of Commissioner, Jalandhar Division, Jalandhar (Ex.D3). Further, in the Will dated 20.04.1995, executed by Karnail Singh in favour of his

grandsons, it was specifically recited that plaintiff-Santokh Singh was a very clever person and he had obtained his signatures on some blank papers on one pretext or the other. In any case, the Will dated 20.04.1995 was subsequent in point of time and vide this testamentary disposition, he had bequeathed his estate in favour of his grandsons i.e. half share to the sons of the plaintiff and the other half in favour of the son of another son, namely, Jagir Singh. Will dated 20.04.1995 could not be said to be a forged or an ingenuine document as half the estate of Karnail Singh was still bequeathed in favour of plaintiff's sons, or had it been a fabricated document; defendants No.11 & 12 could be completely deprived of the properties of the deceased. It was concluded that though the defendants had not proved the original Will dated 20.04.1995, but the order dated 29.11.2001, rendered by the Assistant Collector, Ajnala, revealed that the said Will was misplaced from the records of the revenue authorities.

Learned counsel for the appellant simply seeks to reiterate the submissions that were advanced before the courts below and rejected after a due and comprehensive consideration. And could not point out as to how the conclusions, that have concurrently been recorded by both the courts below, were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed. No question of law, much less any substantial question of law, arises for consideration. Appeal being devoid of merit is accordingly dismissed.

September 29, 2015
Rajan

(Arun Palli)
Judge