

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5171 of 2014(O&M)
Date of decision : December 7, 2015

Amarjit Singh

..... Appellant

Versus

Balwinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. A. S. Khinda, 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?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The appellant-plaintiff is in Regular Second Appeal against concurrent finding of fact whereby the suit for declaration to the effect that the Will dated 5.8.2003 executed by Kartar Singh in favour of the defendants was false, fabricated and claim their respective 1/5th share in the disputed property left behind by Kartar Singh has been dismissed by both the courts below.

Learned counsel for the appellant-plaintiff submits that both the courts below have erroneously and perversely dismissed the suit on the ground that in mutation proceedings the appellant-plaintiff had admitted execution of the Will. He has passed

on copy of the statement suffered on behalf of the appellant which is not signed by him, therefore, such finding is not sustainable.

He further submits that respondents-defendants had examined two attesting witnesses of Will but still it is surrounded by suspicious circumstances as no reasons have been assigned disinheriting the appellant-plaintiff who is none else but son of the deceased Kartar Singh. Thus, substantial question of law arise for determination by this Court.

I have heard learned counsel for the appellant and appraised the paper book.

Execution of the Will is a platform for changing the line of natural succession and obviously therefore the signatory would not mention the name of the person excluding him or her from succession of his estate, otherwise all the legal heirs of the deceased who would have died intestate, would be succeeding by way of natural succession.

In my view and as per the settled law that non-mentioning of the appellant-plaintiff, deprived him any share, is not a valid ground for discarding the Will, much less cannot be said to have been suffering from suspicious circumstances.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 7, 2015
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