

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

**RSA No.5795 of 2014 (O&M)
Date of decision: 21.09.2015**

Harish and others

... Appellants

Vs.

Laxmin Narain and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Gaurav Kathuria, Advocate
for the appellants.

Mr. Y.P.Khullar, Advocate
for the caveator/respondents.

AMIT RAWAL J. (Oral)

C.M.No.11798-C of 2015

The application is allowed, subject to all just exceptions.

Documents, Annexure A-3 is taken on record.

C.M.No.13750-C of 2014

For the reasons stated in the application, duly supported by an affidavit, delay of 14 days in re-filing the appeal is condoned.

C.M. stands disposed of.

C.M.No.13752-C of 2014

The application is allowed, subject to all just exceptions.

Documents, Annexures A-1 and A-2, as additional evidence, are taken on record.

RSA No.5795 of 2014 (O&M)

Challenge in the present appeal is to the concurrent finding of facts and law, whereby, the suit for declaration, injunction and possession of the property challenging the registered Will dated 09.04.2001 executed by Bholi in favour of the beneficiaries, has been dismissed.

Mr. Gaurav Kathuria, learned counsel appearing on behalf of the appellant/plaintiffs submits that Kanta was the daughter of Bholi. Bholi bequeathed the property in favour of strangers by altering line of succession, therefore, Will was surrounded by suspicious circumstances. The voter card proved the age as 30 years, whereas, it is averred that Har Govind died in 1955. Both the Courts below have discarded the voter list. He further submits that by filing miscellaneous application bearing No.C.M.No.13752-C-2014 indulgence of this Court has been sought for placing on record Annexures A-1 and A-2 as additional evidence regarding the Will as well as school certificate of Lakshmi Devi obtained under the RTI Act. It was not expected from Bholi to alter the line of succession in bequeathing the entire property in favour of Lakshmi Devi and another. Both the Courts below have committed illegality and perversity in dismissing the suit and appeal.

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

Except the bald statement in the plaint, no documentary evidence has been proved on record to show that Har Govind husband of Bholi died in the year 1955. Jamabandi Ex.P13, vide which the property was mutated in the name of Bholi, though the death of Har Govind has been mentioned to be in 1955 but the said jamabandi has not been proved. In my view, as per settled law, mere exhibition of the document does not dispense with its proof. Appellant-plaintiff has not led any evidence to prove that the Will was surrounded by suspicious circumstances. No documentary or handwriting expert has been examined in this regard. Kanta in cross-examination candidly admitted that Bholi had signed some blank papers though they were required for the purpose of taking financial assistance for medical expenses of Bholi, but except bald statement, there is no corroborative or independent evidence, either in the shape of oral or documentary to disprove the Will, has been led. In my view, both the Courts below have rendered the findings which are based on appreciation of oral and documentary evidence, much less, no substantial question of law arises to be determined by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 21, 2015
savita