

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.6140 of 2014 (O&M)

Date of Decision: February 27, 2015

Bhim Sein

...Appellant

Versus

Manoj Kumar & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Vijay Rana, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Civil Misc.No.14641-C of 2014

For the reasons mentioned in the application, which is supported by an affidavit, delay of 146 days in re-filing the appeal is condoned.

CM stands disposed of.

R.S.A.No.6140 of 2014

Appellant-defendant No.1 is in appeal against the judgment and decree of the trial Court, whereby the respondent-plaintiff has been declared as exclusive owner in possession of the house/property bearing No.W.M. 5, Basti Guzan, Jalandhar and the appellant-defendant has been restrained

from alienating, in any manner, any portion of the property as well as interfering into the peaceful possession of the plaintiff and also against the judgment and decree of the Lower Appellate Court, whereby the appeal of the appellant-defendant has been dismissed.

Mr.Vijay Rana, learned counsel appearing for the appellant-defendant, *inter-alia*, contends that the Will dated 22.11.1988 was not proved in accordance with law, much less, as per the provisions of Section 63(c) of the Indian Succession Act. He further submits that the original Will has not been brought on record and, therefore, both the Courts below have committed illegality and perversity in admitting the Will for granting declaration in favour of the respondent-plaintiff.

I have heard the learned counsel appearing for the appellant-defendant and am of the view that the appeal, being devoid of merit, is liable to be dismissed for the following reasons:-

The appellant-defendant has not been able to disprove the execution of the Will as the witness of the Will has been produced and had brought the original Will during his examination-in-chief. No effort was made by the appellant-defendant to compare the signature/thumb impression of Sita Devi on the original Will. Even the witnesses have deposed on the lines to the provisions of Section 63(c) of the Indian Succession Act. Sita Devi died on 8.1.2000 and during her life time, she was of sound disposing mind and executed the Will. The attesting witness to the Will is none else but brother of the respondent-plaintiff. Both the Courts below have rendered a finding of fact and law, based on appreciation of oral and documentary evidence. There is no illegality and perversity in the judgments and decrees

of both the Courts below, much less, any substantial question of law arises to be adjudication by this Court.

Accordingly, the appeal is dismissed.

February 27, 2015
ramesh

(AMIT RAWAL)
JUDGE