

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

CR No. 8208 of 2016(O&M)

Date of decision: 23.12.2016

Harinder Kaur and anotherPetitioners

VERSUS

Jasbir Kaur and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Adarsh Malik, Advocate for the petitioners.

REKHA MITTAL, J.

CM No.26132-CII of 2016

Heard.

Allowed as prayed for.

Annexure P-1 to P-7 are taken on record subject to just exceptions.

Disposed of accordingly.

CR No.8208 of 2016

The present petition lays challenge to judgments dated 28.10.2015 passed by the Additional Civil Judge (Senior Division), Dasuya (Annexure P-1) and dated 18.07.2016 passed by the Additional District Judge, Hoshiarpur (Annexure P-3) whereby the petition filed by the respondents under Section 372 of the Indian Succession Act, 1925 (in short 'the Act') for grant of succession certificate in respect of estate of deceased Sudarshan Singh son of Harbans Singh was allowed by the trial Court and the judgment passed by the trial Court has been affirmed in appeal.

The sole submission made by counsel for the petitioners is that as the registered Will propounded by the petitioners has already been carried into effect and the respondents/petitioners have taken advantage thereof, the respondents cannot be heard to say that the deceased died intestate or Will dated 20.02.2009 registered with Joint Sub Registrar, Garhdiwala was not executed by Sh. Sudarshan Singh (since deceased).

I have heard counsel for the petitioners, perused the paper-book particularly the orders Annexures P-1 and P-3.

Jasbir Kaur and others, claiming themselves to be widow and daughters of Surdarshan Singh filed the application under Section 372 of the Act for grant of succession certificate in respect of money lying deposited in a saving bank account in Punjab National Bank in the name of Surdarshan Singh. The present petitioners, daughter-in-law and grandson of Surdarshan Singh propounded a registered Will dated 20.02.2009 purported to be executed by the deceased in favour of Amarpal Singh son of Surdarshan Singh (performa respondent) and Harman Singh son of Jaspal Singh son of Surdarshan Singh. The trial Court framed a specific issue with regard to the Will and the onus thereof was placed upon the respondents. On a pointed query raised by the Court, counsel for the petitioners has fairly informed that the petitioners failed to adduce sufficient evidence on record to prove the Will in accordance with provisions of Section 68 of the Indian Evidence Act, 1872 read with Section 63 of the Act. As the petitioners failed to prove the Will in accordance with law, no error much less illegality can be noticed in the consistent findings recorded by the Courts below upholding plea of the respondents that all the class-I heirs of deceased Surdarshan Singh shall be

entitled to the amount in question in terms of order passed by the trial Court. Counsel has also fairly conceded that no such plea was raised before the Courts below that the Will in question has been carried into effect or the respondents/petitioners have derived any benefit with regard to the estate left behind by the deceased on the basis of registered Will propounded in favour of Amarpal Singh and Harman Singh. In this view of the matter, there is no justifiable reason to interfere in the orders passed by the Courts below.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

DECEMBER 23, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no