

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

RSA-2636 of 2016 (O&M)

Date of decision: 26.05.2016

Saudagar Singh

...Appellant

Versus

Neetu Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. N.S. Sodhi, Advocate
for the appellant.

Mr. Rahul Bhargava, Advocate
for the caveator/respondent No.1

Jitendra Chauhan, J. (Oral)

The trial Court vide judgment and decree dated 13.12.2011, decreed the suit filed by the plaintiff/respondent No.1 for declaration.

2. Aggrieved against the findings of trial Court, the defendant No.1/appellant, a brother of the deceased, Jasbir Singh, who died in harness, filed an appeal which was dismissed by the learned first Appellate Court, vide judgment and decree dated 15.01.2016.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal at the behest of defendant No.1.

4. The brief facts of the case are that Jasbir Singh son of Saudagar Singh, a fireman/diesel assistant with Northern Railway at Amritsar died on 01.12.2000 during service. Said Jasbir Singh was wifeless and issueless. During his life time, he adopted respondent No.1 as his daughter while she was a year old. Jasbir Singh has been recorded as her father in the academic as well as in the other record of respondent No.1. Said Jasbir Singh had also nominated respondent No.1 in the service record to receive his service benefits after his death. He had also executed a Will dated 22.08.1999 in her favour to the effect that after his death, the amount of his service benefits be given to his adopted daughter i.e. respondent No.1 and none else will be entitled to inherit the same. During his life time, the relations of said Jasbir Singh was not cordial towards the appellant. After the death of Jasbir Singh, respondent No.1 approached the railway authorities i.e. respondent No.3 to get the service benefits of her father but appellant/defendant No.1 fraudulently managed the

succession certificate in his favour from the competent Court without impleading respondent No.1 as party in and withdrew the amount of service benefits of Jasbir Singh. Thereafter, respondent No.1 challenged the said succession certificate by filing an appeal which was dismissed, vide order dated 17.12.2004. Respondent No.1 had also obtained succession certificate from the Court of Addl. Civil Judge (Sr. Divn.), Amritsar, by way of order dated 22.01.2004, but appellant had already withdrawn the part of amount. Respondent No.1 had also approached to respondent No.3 alleging that the amount in question be recovered from the appellant but in vain. Thus, respondent No.1 had filed the suit claiming that she being adopted daughter of Jasbir Singh is entitled to service benefits of her father.

5. It is contended that appellant being the brother of Jasbir Singh is entitled to withdraw the benefit of service of his deceased brother and respondent No.1 had no locus standi to claim the benefits. Said Jasbir Singh lived in his own allotted quarter No.321/B in Block-B, Railway Colony, Amritsar and as per Ex.P1, voter list pertaining to the year 1999, it is established that respondent No.1 is a resident of H.No.179, Ram Tirath

Road, New Colony Amritsar and have been living with her natural parents Madan Lal and Sudarshna Rani. Neither there is any proof on record that she ever lived with Jasbir Singh nor any document to show that Jasbir Singh ever put his signatures or submitted anywhere that respondent No.1-Neetu Singh is her daughter. The Will, Ex.P8, if any, is a forged and fabricated document. He further contends that there is no date of alleged adoption of respondent No.1 and the story has been concocted by respondent No.1 just to grab the service benefits of Jasbir Singh.

6. Heard, the learned counsel for the appellant and perused the record.

7. It is not in dispute that Jasbir Singh son of Saudagar Singh and brother of the appellant died on 01.12.2000 while he was in service. Said Jasbir Singh was working as a fireman/diesel assistant in Northern Railway, Amritsar. The appellant being brother of Jasbir Singh has claimed inheritance over the service benefits i.e. death cum retirement gratuity etc. on the ground that respondent No.1 is not entitled to any benefit as Jasbir Singh expired in Railway Hospital, Ferozepur and prior to the death, appellant and his father were serving the late Jasbir

Singh. Respondent No.1 had never looked after Jasbir Singh and the Will, Ex.P8, produced by her, is a forged and fabricated document. However, the claim of the appellant is baseless being without any cogent and convincing evidence as there is nothing on record to support the assertion of the appellant. The Will dated 22.08.1999, Ex.P8 is a registered document, wherein the deceased Jasbir Singh expressed his will that after his death the amount of gratuity, PF and all other service benefits pertaining to his service be given to his adopted daughter i.e. respondent No.1. No reliable document or evidence has been produced to discard the Will, Ex.P8, which has been duly proved on record by attesting witness, PW-2, Raj Kumar. Further, PW-3, Madan Lal, the natural father of respondent No.1 has also supported the version of respondent No.1. It has also come in the testimony of PW-7, Ram Kumar, who was posted in DRM Office Ferozpur Cantt., that in the nomination papers filed by Jasbir Singh, respondent No.1 has been mentioned as his nominee and the relationship in column No.2 of provident fund nomination has been shown as daughter. The matriculation certificate, Ex.P2 and senior secondary examination, Ex.P3 also support the claim of respondent No.1, whereas, there is not even a single

circumstance which would support the claim of the appellant. In the circumstances, the appellant has miserably failed to prove his case by leading any cogent or convincing evidence on record.

8. Thus, in view of the above discussion, this Court concurs with the observations of the both the Courts below. There is no illegality or perversity in the judgments and decrees passed by the Courts below. No substantial question of law arises for consideration. Hence, no interference is called for.

Dismissed.

26.05.2016
sumit.k

(JITENDRA CHAUHAN)
JUDGE