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

RSA-789-2013 (O&M)

Date of decision : 26.02.2016

Satpal and others

...Appellants

Versus

Joginder Singh @ Ram Niwas and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.N. Pillania, Advocate
for the appellants.

Mr. Ashwani Verma, Advocate
for respondent No.1.

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)

CM-2170-C-2013

For the reasons stated in the application, delay of 43 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA-789-2013

The appellants are aggrieved of the judgment and decree rendered by both the Courts below, whereby the suit on the basis of the Will dated 04.03.2002, has been decreed and the mutation in favour of the appellants-

defendants has been set aside.

Mr. S.N. Pillania, learned counsel appearing on behalf of the appellants-defendants submits that Surja Ram had two sons, namely, Krishan Lal and Om Parkash and three daughters. The respondent No.1-plaintiff is none-else but son of Krishan Lal, who instituted a suit against the daughters as well as the LRs of Om Parkash-appellant-defendant. Both the Courts below have committed illegality and perversity in relying upon the Will dated 04.03.2002, whereas the property at the hands of Surja Ram was ancestral as it was purchased from the joint fund. This fact was admitted by the PW2 and the same has not been noticed and therefore, the Courts below have committed the illegality and perversity.

Mr. Ashwani Verma, learned counsel appearing on behalf of the respondent No.1-plaintiff, submits that the appellants-defendants have miserably failed to prove the averments made in the plaint, in essence, the character and nature of the property, much less, its source but in fact was self-acquired property of Surja Ram. He was well within the right to bequeath the property not in the manner and mode adopted, thus, there is no illegality and perversity and prays for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no substance in the aforementioned submissions for the fact that the appellants-defendants have miserably failed to lead the evidence in support of his averments, much less, discharge the onus as per Section 101 of the Indian Evidence Act. No documentary evidence has been proved on record to show that the property at the hands of Surja Singh was ancestral or a coparcenary, much less, was purchased from the joint fund,

and therefore, the Courts below has formed an opinion that the property at the hands of Surja Ram was self-acquired and therefore, the Will dated 04.03.2002 and as per the provisions of Section 68 of the Indian Evidence Act and Section 63-C of the Indian Succession Act, has been proved in accordance with law.

In view of what has been observed above, no ground is made out for interference, much less, no substantial question of law arises for determination.

With the aforesaid observations, the appeal is dismissed.

26.02.2016
yogesh

(AMIT RAWAL)
JUDGE