

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

RSA No.3814 of 2016 (O&M)

Date of Decision.04.11.2016

Urmal Singh and another

.....Appellants

Vs

Bhupinder Kaur alias Bhinder Kaur and others

.....Respondents

Present: Mr. Ranbir Singh Sekhon, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.9923-C of 2016

For the reasons stated in the application, delay of 47 days in filing the appeal is condoned.

Application is allowed.

RSA No.3814 of 2016

The appellants-plaintiffs are aggrieved of the concurrent finding of fact whereby the claim in the suit seeking declaration that they are co-owners to the extent of 3/4th share in the estate of Balwant Singh, their father, son of Kartar Singh in respect of the building/suit property, has been dismissed by both the Courts below.

Learned counsel appearing for the appellant submits that the Will dated 31.01.2006 allegedly propounded by the defendants stated to have been executed by Balwant Singh, though registered, was suffering from suspicious circumstances, as it was outcome of forgery and fabrication. The reasoning given in the Will qua deviation from the line of succession is that the daughter Baljinder Kaur was taken care at the time of

marriage whereas she had a matrimonial discord. In fact the actual facts

have been concealed and therefore, it was nothing but a mala fide act on behalf of the defendants for grabbing the property of Balwant Singh. Balwant Singh had equal love and affection with all his legal heirs and there was no occasion for him to exclude the plaintiffs. All these facts have not been taken care by both the Courts below and therefore, there is no illegality and perversity.

I have heard learned counsel for the appellants, appraised the paper book and of the view that the appellants-plaintiffs are not able to cut the ice, much less, there is no force and substance in the aforementioned submissions of Mr. Sekhon, for, the Will aforementioned is a registered document and has been proved through the testimony of attesting witnesses. Even the handwriting expert has proved the same. The claim of the appellants-plaintiffs is for a natural succession. Natural succession is always taken away by way of a Will. It is the volition and desire of the testator to exclude the other legal heirs from succession.

For the aforementioned, I am of the view that the findings rendered by the Courts below are based upon the preponderance of the evidence, in essence, the appellant has not been able to prove the essential ingredients of Order 6 Rule 4 CPC. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 04, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No