

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3581 of 2015(O&M)
Date of decision : February 26, 2016

Chand Rani and others

..... Appellants

Versus

Harpal Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. D. K. Gupta, Advocate
for the appellants.

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 No. 8688-C of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 1189 days in refiling the appeal is condoned.

The application stands disposed of.

RSA No. 3581 of 2015(O&M)

The appellants-plaintiffs are aggrieved against the concurrent finding of fact whereby the suit for declaration to the effect that plaintiffs are co-sharers in joint possession having ½ share in the estate of Diwan Chand has been dismissed.

Learned counsel for the appellants-plaintiffs submits

that Diwan Chand married twice. He had two wives namely Shanti and from the wedlock of Diwan Chand and Shanti, Karnail Singh was born. The plaintiffs are the legal representatives of Karnail Singh. From the other wife namely Jeeto @ Ajit Kaur he had a son namely Harpal Singh-defendant. A school certificate produced on record shows that Karnail Singh was son of Diwan Chand. The Will of Diwan Chand relied and produced by the defendant-Harpal Singh suffered from suspicious circumstances and could not be relied upon by the courts below, thus, there is illegality and perversity in the impugned orders and a substantial question of law as noticed in the Grounds of Appeal arise for determination by this Court.

I have heard learned counsel for the appellants and appraised the paper book and of the view that there is no substance in the appeal. The certificate issued by the Principal and admission-withdrawal register including birth certificate of the Karnail Singh, wherein, though it has been mentioned as son of Diwan Chand but no evidence has come on record to show that Diwan Chand and Shanti actually and legally were married. There is no compliance of provisions of Section 50 of the Indian Evidence Act, 1872. Section 50 is reproduced hereinbelow:-

*“50. Opinion on relationship, when relevant.—
When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, or any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: ”*

The Will in favour of Harpal Singh Ex.D-1 has not been proved much less is not a registered document. The appellants-plaintiffs have failed to disprove the same by leading direct and cogent evidence.

I am in agreement with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

February 26, 2016
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