

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

**RSA No.5422 of 2015 (O&M)
Date of decision:29.03.2016**

R.D.Rai ... Appellant
Vs.

Sudarshan Kumar Rai and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Munish Gupta, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.12915-C of 2015

For the reasons stated in the application, duly supported by an affidavit, delay of 142 days in filing the appeal is condoned.

C.M. stands disposed of.

RSA No.5422 of 2015 (O&M)

Appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, claim vis-a-vis 1/3rd share in the property of deceased – Kaushalya Devi, has been declined.

Mr. Munish Gupta, learned counsel appearing on behalf of the appellant-plaintiff submits that Will dated 22.07.2002 was executed in favour of Sudharshan Kumar Rai, brother of the

appellant. He further submits that Will was surrounded by suspicious circumstances as it does not mention about the name of other siblings, much less, any reasons for not giving the share to the appellant, whereas, in the cross examination of defendant No.1, it has come on record that all the brothers attended the last rites of Kaushalya Devi. Father of the parties died on 14.07.2002, though the Will was registered one and executed on 22.07.2002. After three months, she went to U. K. and thereafter, Kaushalya Devi expired on 29.10.2002. All these factors show that Will is surrounded by suspicious circumstances and she died due to heart attack, much less, was not in state of mind to execute the Will. Both the Courts below have committed illegality and perversity in declining the relief and urges this Court to formulate the substantial questions of law as culled out in the grounds of appeal.

I have heard learned counsel for the appellant and appraised the impugned judgments and decrees of the Courts below and of the view that there is no merit in the aforementioned submissions of Mr. Gupta, for the reasons that Will has been proved through the testimony of the attesting witnesses, much less, it is registered one. Factum of registration has also been proved. Defendants have failed to belie the signatures/thumb impressions of Kaushalya Devi on the Will. There is no mention of other Will bequeathing the property in favour of Sudharshan Kumar Rai. It is well settled law that a person having self acquired property can deal

with same in any manner he/she wants to. The same procedure has been followed in the present case. It is not the case of the appellant that the property is ancestral. Even otherwise, signatures on the Will conform to the provisions of Section 63(c) of the Indian Succession Act.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 29, 2016
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