

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 825 of 2016(O&M)
Date of decision : March 21, 2016

Rajdeep Singh and another

..... Appellants

Versus

Balbir Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. C. M. Munjal, 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).

The appellants-plaintiffs are aggrieved against the concurrent finding of fact whereby the suit claiming declaration regarding the estate of Pritam Singh as per the Will dated 19.12.1983 qua defendant Nos. 5 and 6 has been dismissed.

Learned counsel appearing on behalf of the appellants submits that during the pendency of the suit, a compromise was effected and suit against defendant Nos. 1 to 4 was dismissed as withdrawn, who are none else but legal representatives of Jagir Kaur viz-a-viz sale deed executed by Iqbal Singh. As regards the dispute with regard to defendant Nos.5 and 6, who are daughters

of Jagir Kaur and Pritam Singh in the absence of any evidence the trial court did not have any occasion to hold that the Will was surrounded by suspicious circumstances. After the death of Pritam Singh the mutation was not in their knowledge and came to know about the sale deed in the year 2010 and no occasion arose for the trial court to disbelieve un-clinching corroborative evidence in the absence of rebuttal as defendants were ex-parte and urges this Court to formulate substantial questions of law for determination by this Court.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no merit in the appeal for the reason that the plaintiffs were unable to prove with regard to the entry in the revenue record, much less disputed the mutation by sending the mutation to the Assistant Collector Grade-I. The Will has not seen light of the day after 27 years of execution of the Will which is un-registered one. No steps have been taken to prove the Will by examining Harbhajan Singh -PW1 as per provisions of Section 63-C of the Indian Succession Act, 1956. The plaintiff cannot be permitted to remain silent in asserting claim on the basis of the document by a period of 27 years. The cause of action, if any accrued immediately after the death of Pritam Singh. In my view the suit was not maintainable.

I do not intend to differ 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

March 21, 2016
archana