

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213

CRM-A-1098-MA-2016 (O&M).
Decided on: December 4, 2017.

Sona Ram (Since deceased) through his LRs

.. Appellant

VERSUS

Om Parkash and others

.. Respondents

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI
HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

* * *

PRESENT Mr.Vikas Kumar, Advocate,
for the applicant.

M.M.S. BEDI, J. (ORAL)

The applicant-complainant is aggrieved by the order of acquittal passed in favour of the respondents in a private complaint filed by him on the allegations that his wife Jinda Bai had not executed a Will regarding 25 kanals 5 marlas of land situated in village Baruwali, Tehsil and District Sisra. He had arrayed Om Parkash, the nephew (brother's son) of his wife Jinda Bai and respondent Nos.2 to 4 being scribe and attesting witnesses and accused No.5 Patwari who had mutated the land on the basis of the Will. In the complaint it was alleged that on the basis of the forged Will of his wife Jinda Bai, the property has been transferred in favour of her nephew. He, in the complaint, had also alleged that he had purchased the said property in the name of his wife and the beneficiary of the forged Will had been handed over the possession of the land as lessee for the cultivation

The trial Court has dismissed the complaint, inter alia, on the ground that the Will is subject matter of the civil suit filed by the complainant against Om Parkash and the Will had been found to be a genuine document and executed in accordance with law.

Counsel for the applicant has vehemently contended that the findings of the civil Court has not become final and is subject matter of the appeal which is yet to be decided. He has submitted that the Will is surrounded by suspicious circumstances and has not been established by the attesting witnesses as attesting witness Kartar Singh himself has not admitted the execution of the Will under his attestation in the civil suit.

We have heard the learned counsel for the applicant and gone through the record. The validity of the Will having not been executed as per Section 63 of the Indian Succession Act, is the subject matter of the civil suit. The dispute inter se the parties is a civil dispute which has to be adjudicated upon by civil Court to determine whether the Will in favour of nephew of the deceased, Om Parkash, is a genuine, validly executed document, attested by the attesting witnesses. All the suspicious circumstances have to be explained by the beneficiary of the Will.

In view of said circumstances, we find that liability, if any, is of civil nature, to be determined by the civil Court.

No ground is made out for interference in the order of acquittal.

Special leave to appeal against acquittal is thus declined.

The application is dismissed.

Nothing said in this order will, in any manner, prejudice the civil litigation pending inter se the parties.

(M.M.S. BEDI)
JUDGE

December 4, 2017.
raj arora

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No