

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

FAO No.4159 of 2014(O&M)

Date of Decision:-14.11.2017

Sat Bhushan.

.....Appellant.

Versus

Rosy & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Neeraj Sharma, Advocate for the Appellant.

Mr. Gagandeep Toni, Advocate for respondent nos.1 & 2.

JASWANT SINGH, J.

CM No.12220-CII of 2014 has been filed under Section 151 CPC seeking condonation of 112 days delay in refilling the present appeal.

For the reasons stated in the application duly supported by affidavit of appellant itself, the CM is allowed and delay of 112 days in refilling the present appeal is condoned.

FAO No.4159 of 2014(O&M)

Appellant-Sat Bhushan is in appeal aggrieved against the judgment and order dated 31.07.2013 passed by District Judge, Chandigarh, whereby in a petition filed under Section 276 of the Indian Succession Act, 1925 probate of a Will dated 1.8.1996 executed by Sadhu Ram was granted in favour of respondent nos.1 & 2, namely, Rosy & Nisha.

On 20.09.2017, both the parties were called for today so as to

explore the possibility of an amicable settlement amongst them, as the counsel for the appellant had stated that since appellant-Sat Bhushan is suffering from brain tumor and is residing in the premises since his birth, therefore, he be permitted to stay in the house till his death, subject to appropriate charges for use and occupation. Today, no settlement could be reached amongst the parties and, therefore, the matter is being decided on merits.

Learned Counsel for the appellant has argued that the learned District Judge, Chandigarh has wrongly held that the Will in question has been duly proved on record, even without appreciating the fact that in a previous civil proceeding, the respondent nos.1 & 2 did not project any Will at all and had rather permitted the Civil Court to let the property devolve upon Suhag Rani widow of testator Sadhu Ram by way of natural succession.

On the other hand learned Counsel for the respondent has argued that subsequent to the order passed by the District Judge under challenge, the appellant-Sat Bhushan had also filed a suit for declaration claiming the property on the basis of natural succession which has been dismissed by the Civil Judge(Jr. Divn.), Chandigarh vide decree dated 19.08.2017.

After hearing learned Counsel for the parties and perusing the paper book with their able assistance, this Court is of the considered view that the present appeal is devoid of any merit and deserves to be dismissed.

In the Probate proceedings what is required to be seen is whether a valid Will was executed by the testator in favour of the beneficiaries or not. In the present case, the beneficiaries-respondent no.1

& 2 have examined Surjit Singh Sahayak Sodhi (attesting witness to the Will) as PW-2. It is also apparent that the said Will was registered before the Sub Registrar and relevant record was produced to prove the same before the Courts below. Not only this, the Will in question was attested by Smt. Suhag Rani (wife of testator Sadhu Ram) and this fact gives more credence to the Will in question. In this view of the matter, the arguments raised by learned Counsel for the appellant pales into insignificance.

Further, notice of motion was issued on a very limited ground on 20.09.2017 to explore the possibility of a compromise.

In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

November 14, 2017

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>