

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.2682 of 2010(O&M)
Date of Order: 15.09.2017

Didar Singh and another

..Appellants

Versus

Talbir Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Lath, Advocate
for the appellants.

Mr. Surinder Sharma, Advocate,
for respondent nos.1, 4, 8 and LR of respondent no.9.

ANIL KSHETARPAL, J. (Oral)

Plaintiffs are in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

The Courts have found that the Will dated 10.01.1992 allegedly executed by late Shri Sardara Singh is doubtful and surrounded by suspicious circumstances which have not been successfully dispelled by the plaintiffs.

However, in this regular second appeal, the only grievance of the appellants is with respect to the directions issued by the learned trial Court, which read as under:-

"22. Before parting with this judgment, since plaintiffs in connivance with Amar Singh, Lachhman Singh and Lamberdar Surjit Singh have forged a Will dated 10.01.1992 as to be of Sardara Singh, it is ordered that

a case be registered against these persons for forging a Will and producing the same in the Court as a part of evidence. The contesting defendants will also be at liberty to file a separate complaint in this regard."

Learned counsel for the appellants has argued that no doubt the plaintiffs failed to dispel the suspicious circumstances, however, learned trial Court could not have directed registration of the case against the plaintiffs.

On the other hand, learned counsel for the respondents who are also family members, do not have serious objections for setting aside the aforesaid direction.

Failure of the plaintiff to dispel the suspicious circumstance cannot be taken as a finding that propounder of the Will has forged the Will. Civil cases are decided on the basis of preponderance of evidence.

I find that the directions issued by the learned trial Court in paragraph 22 of the judgment were wholly unnecessary. While upholding the judgment passed by the learned trial Court, the directions given by the learned trial Court in paragraph 22 of the judgment affirmed in appeal are set aside.

The regular second appeal is disposed of accordingly.

September 15, 2017
nt

(ANIL KSHETARPAL)
JUDGE

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