

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

**(1) RSA No.4098 of 2011 (O&M)
Date of Order:25.09.2017**

Seema Rani ..Appellant

Versus

Gurkirat Singh and others ..Respondents

(2) RSA No.4125 of 2011 (O&M)

Gurkirat Singh and others ...Appellants

Versus

Gurdev Singh Birdi and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Kumar, Advocate,
for the appellant (in RSA No.4098 of 2011)
for respondent no.3 and 4(in RSA No.4125 of 2011)

Mr. Ashok Giri, Advocate,
for the appellant (in RSA No.4125 of 2011)
for the respondents No.1 to 7 and 10 (in RSA-4098-2011)

ANIL KSHETARPAL, J (Oral)

By this common judgment, I shall be disposing of Regular
Second Appeal Nos.4098 and 4125 of 2011.

Dispute in the present case is with respect to estate left by Late
Shri Pala Singh, who died on 05.11.1979.

Plaintiffs had filed a suit alleging that late Shri Pala Singh had
executed a Will in their favour on 04.06.1978. They had further challenged
the sale deed dated 11.10.1994, executed by Karamjit Singh, defendant no.2
as a general attorney of defendant no.1 in favour of defendants no.3 and 4.

Learned first appellate Court has recorded a findings of fact that the will set up by the plaintiffs is surrounded by suspicious circumstances as it was not produced before authority for a period of more than 16 years. Late Shri Pala Singh had died on 05.11.1979, whereas plaintiffs filed the suit on 12.06.1995. Learned first appellate Court further held that the Will produced by the plaintiffs is not free from suspicious circumstance and does not gain the confidence of the Court.

Learned first appellate Court has recorded that the property of late Shri Pala Singh would be succeeded as per natural succession.

Both the Courts below have further found that defendants no.3 and 4 are not owners of the property because their vendor Gurdev Singh is not proved to be having any right, title or interest in the property.

Learned counsel for the parties have tried to persuade me to examine the issue whether plaintiffs and defendant no.1 are the legal heirs of late Shri Pala Singh or not as it is alleged that late Shri Pala Singh had died issueless and was related to the plaintiffs and defendant no.1. However, such issue was not before the Court and in the absence of pleadings and evidence, it will not be possible for this Court to examine this issue for first time.

The findings of fact arrived at by the first appellate Court is not shown to be erroneous. Counsels have failed to prove any substantive misreading or non-reading of evidence.

In view of the aforesaid discussion, the judgment passed by the first appellate Court is upheld. However, the parties would be at liberty to stake their claim for the property of late Shri Pala Singh, if they are able to establish that they are the natural heirs of late Shri Pala Singh.

In view of what has been recorded hereinabove, both the regular second appeals are dismissed.

September 25, 2017
nt

(ANIL KSHETARPAL)
JUDGE

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