

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.681 of 2011 (O&M)
Date of Order: 06.10.2017

Ranjit Singh

..Appellant

Versus

Gurdev Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate,
for the appellant.

Mr. Vinod Sharma, Advocate,
for respondents no.1, 2 and 4.

ANIL KSHETARPAL, J (Oral)

C.M.No.1832-C-2011

This is an application for condonation of delay of 1819 days in filing the appeal.

It has been stated in the application that the appeal was originally filed on 30.01.2006 through Shri J.S.Dahiya, Advocate, however, there were certain objections but appeal was not re-filed. It has further been submitted that Shri J.S.Dahiya, Advocate, could not be traced by the appellant. Learned counsel for the appellant has further produced before me the original receipt issued by this Court while filing the appeal on 31.05.2006. The application is supported by an affidavit.

Although, the delay is almost 5 years, however, taking into consideration that the appellant did file an appeal within the time as also the fact that every one has a right to be heard on merit, therefore, the delay in

filing the appeal is condoned although it is strongly opposed by counsel for the respondents.

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Plaintiff-appellant is in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Dispute in the present case is with regard to estate of Sant Singh, who had left behind 5 sons or their legal heirs and one daughter. In fact one son Jagjit Singh had pre-deceased Sant Singh. It is not in dispute that Sant Singh suffered a paralytic attack, which effected his right side and the brain in December 1995. Plaintiff claims exclusive succession on the basis of Will dated 10.01.1996 (registered), whereas defendants had set up a Will dated 26.02.1996, which is notarized.

Both the Courts below after appreciating the evidence available on the file, have discarded both the wills and has ordered that the property will go as per natural succession. The Courts have threadbare discussed the evidence. Although, learned counsel for the appellant has pointed out certain contradictions. However, overall the Courts below have appreciated the evidence and found that both the Wills are surrounded by suspicious circumstances and the conscious of the Court is not satisfied with regard to the genuineness of the Wills, while taking into consideration the fact that Sant Singh died on 09.03.1996. It has further been found by the Courts and admitted by the parties that Sant Singh was confined to bed and was not able to move from the day he suffered paralytic attack.

Taking into consideration the concurrent findings of fact arrived at by the Courts below and the doubt expressed by the Courts below while examining the evidence available on file, this Court is unable to arrive

at a different conclusion than what has been recorded by the Courts below.

In view of what has been recorded hereinabove, the present appeal is dismissed while upholding the decrees passed by the courts below.

October 06, 2017
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(ANIL KSHETARPAL)
JUDGE

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