

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

RSA No.2533 of 2013 (O & M)
Date of decision :12.09.2017

Ramo Bai and others

...Appellants

Versus

Vidya Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Jasuja, Advocate
for the appellants.

Mr. Raman Goklaney, Advocate
for respondent No.3.

ANIL KSHETARPAL, J.(Oral)

Plaintiffs are 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 late Shri Hardial Ram. Hardial Ram had left behind mother, widow, three sons and a daughter. Three sons and widow are the plaintiffs. Plaintiffs had set up a Will dated 07.06.1997. On the other hand, defendants namely mother of Hardial Ram and one daughter of Hardial Ram claimed succession on the basis of natural succession.

Original Will which was unregistered has not been produced. It was the case of the plaintiff that the Will was given to Kabool Singh Patwari for sanction of the mutation and he lost it. Kabool Singh has been examined by the defendants, but no suggestion was given to Kabool Singh that the Will was ever handed over to him.

Plaintiffs have examined the alleged scribe. The aforesaid

scribe was got declared hostile. Plaintiffs have only examined one attesting witness. Both the Courts after appreciation of the evidence came to a finding that the execution of the Will by late Shri Hardial Ram is not proved on the file.

Learned counsel for the appellants has argued that once the application for secondary evidence was allowed, the photocopy of the Will was produced, thereafter, plaintiffs were not required to prove the loss of the Will. He has further argued that Kabool Singh Patwari had connived with the defendants and, therefore, the loss of the Will could not be proved.

On the other hand, learned counsel for the respondents-defendants have supported the judgments passed by the Courts below. He has submitted that once the loss of Will is not proved and the scribe has also not supported the case of the plaintiffs, therefore, there is no evidence available on the file to prove the genuineness of the Will.

I have heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

It is well settled that propounder is dispell all suspicious circumstances surrounding the Will. It is not in dispute that original alleged Will has not been produced on the file. Only a photocopy thereof was produced. It was the case of the plaintiffs that the Will was handed over to Kabool Singh for sanctioning of the mutation. In the present case, the mutation of inheritance of late Shri Hardial Ram was sanctioned on the basis of natural succession. Plaintiffs did not produce the aforesaid Kabool Singh Patwari. Defendants produced the aforesaid witness, however, plaintiffs did

Hardial Ram was handed over to him. Further plaintiffs have examined alleged scribe who has also not supported the case of the plaintiffs. This witness was declared hostile.

Hence, I do not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, the appeal is dismissed.

12.09.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No