

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

RSA No. 3523 of 2016 (O & M)

Date of decision :11.10.2017

Sarabjit Singh

...Appellant

Versus

Harinder Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Balbir Singh Jaswal, Advocate
for the appellant.

Mr. J.S. Thind, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

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 respect to estate of late Shri Jagir Singh, who died on 05.06.2008. Plaintiff claims property on the basis of the Will dated 25.05.2008 (Ex.P-1 on the file).

Both the Courts have noticed the following suspicious circumstances to hold that the Will is not proved.

1. Deceased Jagir Singh had suffered paralysis and was bed ridden.
2. The Will was executed only 11 days before the date of death.
3. On the thumb impression of Jagir Singh, it is not mentioned whether it is Right Thumb Impression or Left Thumb Impression.
4. Jagir Singh has written in the Will that my wife Gurdip Kaur @ Phino would not get any share, although she died in the year 1993, i.e. 15 years before the alleged execution 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.

Learned counsel for the appellant has vehemently argued that the Will is proved on the file by the statement of attesting witnesses Amrik Singh and Sukhdev Singh. He has stated that once the Will is proved, the Will has to be given effect. He submits that the Will has been proved in accordance with Section 68 of the Evidence Act.

I have considered the submission.

In the present case, the Will has not been discarded on the ground that the Will is not proved. The Will has been discarded because the prepounder of the Will has failed to dispel suspicious circumstances including the fact that the executant has written in the Will that his wife would not get anything, although she had died 15 years before the alleged execution of the Will.

Counsel for the appellant could not give any explanation as to why this fact was mentioned in the Will. This one circumstance itself is sufficient to hold that the Will is surrounded by suspicious circumstance.

For the reasons recorded above and also for the reasons recorded by the Courts below, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, this regular second appeal is dismissed.

11.10.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No