

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

RSA No.4110 of 2017 (O&M)

Date of decision: 22.09.2017

Paramjit Kaur and others

..... Appellants

Versus

Hardev Singh and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Hem Raj Bhardwaj, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-10641-C-2017

Delay in re-filing the appeal is condoned and the application is allowed.

CM-10642-C-2017

Exemption as prayed for is allowed.

Main Case

Defendants are in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiffs in the present case had claimed ownership on the basis of registered Will dated 24.01.1994 executed by late Sh. Hari Singh, their predecessor-in-interest. As per the registered Will, half share of the property was bequeathed in favour of plaintiffs No.1, 2 and late Sh. Baldev Singh, predecessor of plaintiffs No.3 to 6 whereas remaining half share was bequeathed in favour of Mukhtiar Kaur, widow. It was provided that

Mukhtiar Kaur would be entitled to draw benefit out of the land during her life time but after her death, property will devolve upon plaintiffs No.1, 2 and late Sh. Baldev Singh's son-Hari Singh. After the death of Mukhtiar Kaur on 29.11.2011, disputes started between the parties.

Defendants-appellants appeared and contested the suit. The execution of the Will by Hari Singh was disputed. It was further pleaded that life interest given to Mukhtiar Kaur was not valid and therefore, she became absolute owner of the property.

Learned trial Court after appreciating the evidence available on the file held that the Will executed by Hari Singh is proved. Hence, the suit filed by the plaintiffs was decreed.

Defendants filed the first appeal. Learned First Appellate Court after re-appreciating the evidence available on the file upheld the finding of the learned trial Court.

Learned counsel for the appellants has submitted that the Will is not proved on the file either in accordance with Section 68 or Section 69 of the Evidence Act. He has submitted that none of the attesting witness has been examined. I have considered the submission of learned counsel. It is not in dispute that both the attesting witnesses had died. PW-1 who is son of the scribe has been examined in the Court. PW-2 son of marginal witness of the Will has also been examined who has proved the signatures of his father on the Will.

In view of the aforesaid, provisions of Section 69 of the Evidence Act stands complied with. Hari Singh had executed the registered Will.

In view of the discussion made above, I do not find any good

ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Regular Second Appeal is dismissed.

22.09.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No