

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

**RSA No.6230 of 2017  
Date of decision: 22.12.2017**

**Surinder Singh (deceased) through LRs and others  
.....Appellants**  
**Versus**  
**Jarmanjit Singh (deceased) through LRs and others  
.....Respondents**

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. K.S. Mangat, Advocate,  
for the appellants.

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**Ritu Bahri, J.**

This appeal has been filed against the judgment dated 30.08.2017 passed by the Additional District Judge, Gurdaspur, dismissing an appeal filed by defendant Nos.2, 3 and 4-appellants (hereinafter referred to as 'the defendants') against the judgment and decree dated 08.05.2015 passed by the Civil Judge (Junior Division), Batala, whereby suit filed by plaintiff-respondent Nos.1 and 2 (hereinafter referred to as 'the plaintiffs'), has been decreed.

Jarmanjit Singh and Rajwant Kaur-plaintiffs (respondent Nos.1 & 2 herein) filed a suit for declaration with consequential relief of permanent injunction alleging herein that the land, detailed and described in the head note of the plaint, was owned and possessed by Surat Singh son of Pal Singh, resident of village Brahm. Said Surat Singh had expired on or about 13.01.2006 leaving behind defendant Nos.1 and 2 as his sons and defendant

Nos. 3 and 4 as daughters. Plaintiff No.1 was the grandson of Surat Singh and plaintiff No.2 was wife of Kulwinder Singh, grandson of Surat Singh. As per plaintiffs, Surat Singh had executed a registered Will dated 18.08.2004 in favour of the plaintiffs. After the death of Surat Singh, plaintiffs had become absolute owners in possession of the land in dispute. Defendants had threatened that they would interfere in the possession of plaintiffs and dispossess them from the suit land illegally and forcibly. Hence, the suit.

Upon notice, defendant Nos.2 to 4 (appellants herein) filed joint written statement taking the preliminary objections with regard to cause of action and maintainability of the suit. On merits, it was admitted that Surat Singh was the owner of suit land. Relationship of the parties with Surat Singh was also admitted. It was submitted that after the death of Surat Singh, defendant Nos. 1 to 4 were entitled to the estate left behind by him, in equal shares. It was denied that Surat Singh had executed any Will dated 18.08.2004 in favour of the plaintiffs. It was further submitted that defendant Nos.1 to 4 were in actual, physical and cultivating possession of the suit land after the death of Surat Singh. All other allegations made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether Surat Singh executed a registered Will dated 18.08.2004 in favour of plaintiffs? OPP
2. Whether the plaintiffs are entitled to the declaration as prayed for? OPP
3. Whether the plaintiffs are entitled to consequential relief of permanent injunction as prayed for? OPP

4. Whether no cause of action accrued to the plaintiffs against the defendants? OPD
5. Whether the suit is not maintainable? OPD
6. Relief.

Trial Court, after going through the evidence led by the parties, decreed the suit. Appeal against the said judgment also met the same fate. Both the Courts below have given a concurrent finding of fact in favour of plaintiffs-respondent Nos. 1 and 2 to the effect that the Will dated 18.08.2004 has been proved in accordance with Section 63 of the Indian Succession Act, 1925 and Section 65 of the Evidence Act. In order to prove the Will in question, plaintiffs have examined Ajaib Singh (PW-2) and Rajinder Kumar, scribe (PW-3). Ajaib Singh, attesting witness (PW-2) deposed that Surat Singh had executed the Will, Ex.P1, in favour of his grandson Jarmanjit Singh to the extent of ½ share and also in favour of his grand-daughter Rajwant Kaur in respect of the suit land. He had identified his signatures on the Will and stated that the same was scribed by *Vasika Navees* Rajinder Kumar. It was read over to the testator, who admitted the same to be correct in his presence as well as in the presence of Dalbit Singh, Lambardar (since expired). Surat Singh had signed the Will, Ex.P1 and thereafter, got it registered from Joint Sub Registrar, Sri Hargobindpur. Plaintiff Nos.1 and 2 were rendering services to Surat Singh. They were looking after him in his old age and in lieu of those services, Surat Singh had executed the Will, Ex.P1, in favour of plaintiffs-respondent Nos. 1 and 2.

Rajinder Kumar, Scribe (PW-3) deposed similarly with regard to execution of Will, Ex.P1. He further deposed that the Will was typed by him at the instance of Surat Singh. After typing, he read over the contents of the

Will to Surat Singh in the presence of Ajaib Singh and Dalbir Singh. He also tendered the contents of the Will in his register at Sr. No.607 dated 18.08.2004. Both these witnesses i.e. Ajaib Singh (PW-2) and Rajinder Kumar (PW-3) were cross-examined at length, but nothing fruitful favouring the defendants (appellants) came out of their mouth. Surinder Singh-appellant (DW-2), in his cross-examination had admitted that they have separate residential accommodation. It was also admitted that plaintiffs-respondent Nos. 1 and 2 were using the agricultural land of Surat Singh. Surat Singh was being looked after by the plaintiffs and in lieu of services rendered by them, he (Surat Singh) got executed and registered Will, Ex.P1, in favour of plaintiffs in his sound disposing state of mind. Mere denial of execution of the Will could not be made a ground to dismiss the suit.

Learned counsel for the appellants, while referring to the Will Ex.P1, contends that before the signatures of testator, there is a fault in spacing the line of the Will.

However, a perusal of the Will shows that the scribe has correctly written the same and there is no fault in the spacing of line.

Will, Ex.P1, was a registered document, on which, Surat Singh had put his signatures in Urdu language. Since, the said Will was produced before the Registering Authority by testator himself, it carried a presumption that signatures appended on the Will were of Surat Singh. The Will was not surrounded by suspicious circumstances, as it was registered before the competent authority.

In the light of the above discussion, having examined the impugned judgments passed by both the Courts below, no illegality, much less perversity, has been found therein warranting interference by this

Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

22.12.2017  
ajp

**(RITU BAHRI)**  
**JUDGE**

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