

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

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**RA-RS-88-C-2017 in
RSA No.2734 of 1994**

Date of decision: 03.11.2017

Karnail Singh

..... Appellant

Versus

Sadhu Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sunil Chadha, Sr. Advocate with
Mr. Chetan Bansal, Advocate
for the applicant-appellant.

ANIL KSHETARPAL, J. (ORAL)

This is an application seeking review of judgment dated 10.10.2017. Learned counsel for the review petitioner has submitted:-

- (i) There is non-compliance of Section 63(c) of the Indian Succession Act, 1925 as only one attesting witness namely Vasdev examined. However, he had not complied the requirement of Section 63(c) of the Indian Succession Act.
- (ii) Modan Singh, the testator was living with Sadhu Singh, his brother as per the Will, however, this Court has held that he was living with Gurmeet Singh, although, in the Will, it has mentioned by Modan Singh that he was living with Sadhu Singh.

It has further been pointed out that this Court has used the word near relation. Appellant is the brother whereas property has been given to the nephew.

I have considered the submissions of learned counsel.

Learned counsel for the appellant has supplied an English translation of the statement of the attesting witness. Relevant part is extracted as under:-

“Thereafter, Modan Singh appended his thumb impressions upon the Will. I also appended my thumb impression. Mansha Singh had put his signatures. Will is Ex.D-1 (objected to on the mode of proof). I also appended my thumb impression.”

It is clear from the reading of the aforesaid statement that Vasdev, the attesting witness has specifically stated that Modan Singh appended his thumb impression on the Will. He, the attesting witness, had appended his thumb impression and Mansha Ram had also put his signatures. It is clear that both the attesting witnesses and the testator were present at one point of time. In the considered opinion of this Court, there is sufficient compliance of Section 63(c) of the Indian Succession Act.

It is not in dispute that Gurmeet Singh, the beneficiary under the Will, is son of Sadhu Singh. If it has been mentioned in the Will that Modan Singh, who was issueless and unmarried, was living with his brother and brother's son is beneficiary, then there is no factual error in the judgment passed by this Court.

Learned counsel has last pointed out that this Court has observed that no near relative has been excluded. In this case, the testator was unmarried and issueless. He had executed a Will in favour of son of his

brother. The word near relative has been used in that context.

For the reasons recorded above, I do not find any good ground to interfere in the judgment passed by this Court.

Review application is dismissed.

03.11.2017
Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

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