

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

1. RSA No.2084 of 1990 (O&M)
Date of decision : 02.02.2018

Niranjan Singh and another

...Appellants

Versus

Inder Singh and others

...Respondents

2. RSA No.2090 of 1990 (O&M)
Date of decision : 02.02.2018

Mehal Singh and others

...Appellants

Versus

Inder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gulshan Sharma, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

The aforesaid two appeals have been filed by the defendants against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff had filed a suit claiming the property of Dara Singh who died unmarried and issueless on the basis of the natural succession, whereas defendant Nos.7 and 8 contested the suit and pleaded that on the basis of the Will dated 12.06.1972, they have become owners.

The original Will was not produced on the file. Only a certified copy of the Will was produced. The defendants only examined one witness namely Fateh Singh.

Both the Courts after appreciating the evidence available on the file have held that the execution of the Will has not been proved and the Will is surrounded by the suspicious circumstances.

The First Appellate Court has further recorded a finding that the execution of the original Will and loss thereof has not been proved. The Court has further recorded a finding that the Will has not been proved in accordance with the requirements of Section 68 of the Indian Evidence Act.

I have heard the learned counsel for the appellants at length and with his able assistance gone through the record of the case.

Learned counsel has admitted that the Will was registered after the death of Dara Singh. He has also admitted that the loss of original Will has not been proved. However, he submitted that Niranjana Singh and Jagir Singh-defendant Nos.7 and 8-appellants were grandsons of the brother of Dara Singh, therefore, Dara Singh had a special love and hence the Will was executed.

In the considered opinion of this Court, once the Will has not been proved in accordance with Section 68 of the Indian Evidence Act and the original Will has not been produced on the file, this Court does not find any scope for interference with the concurrent findings of fact arrived at by both the Courts below.

In the second appeal i.e. RSA No.2090 of 1990, subsequent purchaser from the Niranjana Singh and Jagir Singh had challenged the

aforesaid judgment. Once Niranjan Singh and Jagir Singh do not become owner of the property, they could not transfer the better title in favour of the appellants in this appeal.

In view of what has been discussed above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Both the Regular Second Appeals are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in terms of the abovesaid judgment.

02.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No