

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

RSA No.375 of 1991 (O&M)
Date of decision : 17.04.2018

Jaswant Singh

...Appellant

Versus

Jagraj Singh (deceased) through his LRs

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellant.

Mr. S.K. Singla, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

The plaintiff had filed a suit for possession of the property which belonged to Late Sh. Balwant Singh and Late Sh. Bhag Singh, his brothers.

Defendant No.2 contested the suit and pleaded that Late Sh. Balwant Singh and Late Sh. Bhag Singh had executed the testamentary documents bequeathing the property in his favour. Both the testamentary documents executed by Late Sh. Balwant Singh and Late Sh. Bhag Singh dated 30.11.1980 and 27.08.1981 were proved on file as Ex.D2 and Ex.D4

respectively. Both the Courts have recorded the concurrent finding that the testamentary documents-Wills have been proved.

On 09.02.2018, no one had come present to represent the parties. Office was requested to issue notice to the parties as well as to their counsel. The case was thereafter listed on 22.03.2018, when Sh. Amit Kainth, Advocate had appeared and the case was adjourned on his request for final arguments. However, today when the case was called for hearing, counsel for the appellant once again has not appeared. Hence, this Court is left with no choice but to read and decide the present Regular Second Appeal.

This Court has carefully gone through the grounds of appeal.

It has been only pleaded that the property is a coparcenary Joint Hindu Family Property.

Correctness of the findings of the Courts below on the validity of the Will has also been challenged.

Both the Courts below have examined both the issues and have found that the property is neither coparcenary nor Joint Hindu Family. Late Sh. Balwant Singh and Late Sh. Bhag Singh were exclusive owners of the property in dispute. They were last male holders as they did not leave behind any Class-I heir. The execution of the Wills-testamentary documents have been proved in accordance with Section 68 of the Indian Succession Act as attesting witnesses namely Bant Singh in respect of Will dated 30.11.1980 and Sadhu Singh in respect of Will dated 27.08.1981 have been examined.

In view of the aforesaid, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

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

17.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No