

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

RSA No.3332 of 1997 (O&M)

Date of decision : 21.09.2018

Chanan Singh and another

...Appellants

Versus

Ajit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurnam Singh, Advocate for the appellants.

Ms. Jaideep Kaur, Advocate for
Mr. G.S. Jaswal, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

Learned counsel for the appellants, at the outset, submits that the record of the Courts below has not been received, therefore, this Court should not proceed to hear the case. The appeal was instituted in the year 1997 and the same is pending for 21 years. Hence, this Court finds no reason to keep the appeal pending. Learned counsel for the parties are having complete file which can be examined by the Court in case of necessity.

Learned counsel for the appellants has submitted that the registered Testament executed by Bishan Singh dated 21.11.1988 in favour

of Ajit Singh (son of the Testator), is surrounded by suspicious circumstances. He pointed out that on the registered Testament, late Sh. Bishan Singh has signed at three places and all the signatures are different. He further pointed out that the Scribe when appeared in the evidence, has admitted that there were only four entries in the entire year in his register. He further pointed out that the beneficiary of the Testament has taken active part in the execution of the Testament. He further submitted that the Sub-Registrar who registered the Testament has only put initial and not full signatures.

This Court is exercising the powers of second appeal.

It is not expected from the Court, exercising the powers of second appeal to re-hear the suit. In the present case, the registered Testament has been proved by examination of DW2 Amar Nath, Nambardar, the attesting witness. DW1 Mohan Lal, Scribe has also been examined. The Testament has been proved in accordance with Section 68 of the Indian Evidence Act. Still further, the difference in the signatures, as submitted by the learned counsel for the appellants, has not been proved. Only the plaintiffs have appeared in evidence and have orally stated that the signatures are different. Apart therefrom, no evidence has been produced to prove that Bishan Singh had not put his signatures on the aforesaid registered Testament. Mere oral statement which has been disbelieved by the Courts below, cannot be made a ground to interfere in the concurrent findings of fact.

As regards, there being a few entries in the register of the Scribe in the entire year, that cannot be a ground to doubt the genuineness

of the registered Testament. In the present case, father has bequeathed the property exclusively in favour of one son. Bishan Singh remained alive for a period of almost two months after execution and registration of the testament.

As regards the argument of the learned counsel that the Beneficiary had actively participated in the execution of the Testament, learned counsel could not draw attention of the Court to any evidence that the Beneficiary had exercised his undue influence on the testator at the time of execution of the Will.

Last argument of the learned counsel with regard to the initial of the Sub-Registrar on the endorsement, it may be noted that no other documents have been produced to prove that the Sub-Registrar use to put his full signatures on the other documents whereas in the present case, only initial has been put.

In view of the aforesaid, this Court does not find any good 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.

21.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No