

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

RSA No.1539 of 2016

Date of Decision.11.05.2018

Tara Singh (since deceased) through LRs and anotherAppellants

Vs

Ranbir Singh and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Raman Goklaney, Advocate
for the appellants.

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AMIT RAWAL J.(ORAL)

C.M. No.4220-C of 2016

For the reasons stated in the application, delay of 9 days in
re-filing the appeal is condoned.

Application is allowed.

RSA No.1539 of 2016

The appellants-plaintiffs are aggrieved of the concurrent finding of fact whereby the suit claiming inheritance of estate of Karam Singh, father of plaintiff No.1 and defendant No.1 and 3, husband of defendant No.2 and grand father of plaintiff No.2 on the basis of the Will dated 4.9.1997 has been declined by the trial Court and affirmed by the lower Appellate Court.

Mr. Raman Goklaney, learned counsel appearing on behalf of the appellants-plaintiffs submitted that the plaintiff was an ex-army man and he used to reside at Ferozepur. Karam Singh before his death, who died on 02.11.1997, executed the aforementioned Will. Two witnesses of the Will had been examined. One deposed in favour of the plaintiff and another in favour of the defendant. The Courts below

discarded the Will on the ground of suspicious circumstances but the fact of the matter is that the appellant had discharged the onus as per Section 68 of the Indian Evidence Act as the requirement of the law is that only one of the witnesses is to be examined. On demise, the mutation on the basis of the natural inheritance was effected in the year 2004. Thereafter, the mother and sister transferred their shares in favour of defendant No.1-Ranbir Singh, the other brother, which could not have been done, thus, there is illegality and perversity.

I have heard learned counsel for the appellants-plaintiffs, appraised the paper book and of the view that there is no force and merit in the submission of Mr. Goklaney, for, the appellants-plaintiffs himself spilled the beans in the cross-examination when he admitted that he had moved an application for seeking partition of the land. Had Karam Singh bequeathed entire property in his favour, there was no occasion for him to seek partition of the land. He had been found to be blown hot and cold in the same breath. This is what has been noticed by the Courts below in dismissing the suit.

In view of the aforementioned, the argument of Mr. Goklaney has not been able to cut ice enabling this Court to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 11, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No