

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

RSA No.4096 of 2013 (O&M)

Date of Order: 04.04.2018

Ashok Kumar

..Appellant

Versus

Vishwa Mitar

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ramesh Sharma, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

C.M.No.11866-C-2017

Prayer in this application is for bringing on record the legal representatives of Vishwa Mitar-respondent.

For the reasons mentioned in the application, which is supported by an affidavit, the application is allowed, subject to all just exceptions. The legal representative mentioned in paragraph 3 of the application is brought on record for the purpose of prosecuting this appeal only.

Amended memorandum of parties filed along with the application is taken on record.

RSA No.4096 of 2013

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

The dispute in the present case is with regard to validity of the Will executed by the father of the parties, namely, Late Sh. Har kishan Lal, dated 22.06.1996, which was registered on 27.08.1996. Plaintiff, in order to prove the Will, examined both the attesting witnesses, namely Harish

Chander and Vinod. Both the courts have concurrently found that the Will stands proved.

Learned counsel for the appellant has vehemently argued that Late Sh. Har kishan Lal had also executed another Will dated 16.09.1994, but in the present Will, which is subsequent, only a vague reference to the earlier Will has been made and, therefore, it is a strong suspicious circumstance for holding that the Will dated 22.06.1996, which is again registered, is not valid. With the able assistance of learned counsel for the appellant, this Court has read the Will dated 22.06.1996, registered on 27.08.1996. This will is in detail. The executant-testator has given details of all the children including the daughters, who had already been married. In the Will, it has been mentioned that if he had executed any other Will, the same shall stand cancelled. The executant has further mentioned that this is his last Will.

In the considered opinion of this court, it is the last Will which has to prevail. The previously executed Wills would automatically stand revoked, once a fresh Will is subsequently executed. In the present case, the executant was conscious of this fact that he had executed an earlier Will which he has revoked by stating that if there is any other Will, the same shall stand revoked.

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

The regular second appeal is dismissed.

April 04, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No