

RSA No.1846 of 2016(O&M)  
DATE OF DECISION:13.11.2018

Gurdev Kaur(deceased through LR)

...Appellant

Vs.

Sadhu Singh &amp; others

## ...Respondents

**CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Ashish Gupta, Advocate  
for the appellant.

AMIT RAWAL, J.(ORAL)

Appellant-defendant has not been successful in seeking declaration of ownership by laying challenge to the Will dated 25.07.2000 executed by Bhag Singh her father.

It was alleged that Bhag Singh during his life time had sold the property vide sale deed dated 11.11.2005 in favour of defendants No. 1, 3 and 7. It was alleged that Will was forged and fabricated, therefore, the beneficiaries could not derive any benefits.

Defendants opposed the aforementioned suit and laid emphasis that the will was registered thus carried a presumption of truth.

In support of the evidence, the plaintiff examined two witnesses and closed the evidence.

On the other hand, defendants examined attesting witness DW-1 Malkiat Singh and DW3 Paramjit Singh, Lambardar to prove the execution of the Will.

The trial court on the preponderance of evidence, partly decreed the suit and appeal preferred before the lower appellate Court by the

defendant has been allowed.

Learned counsel appearing on behalf of the appellant-defendant submitted that the Will was surrounded by suspicious circumstances as it did not bear the signatures of Bhag Singh. No reason had been assigned for deviating from line of succession. There is no provision that married daughters can not be taken care of.

I am afraid that the aforementioned argument is not sustainable as onus required under Section 101 of the Evidence Act has not been discharged by examining the expert to prove that the Will did not not bear signature nor it has been sent to the Forensic Science Laboratory. Execution of Will is always change of the line of the deviation. It is the Will of the testator which can only be challenged in certain circumstances which have not been proved on record.

I do not find any illegality or perversity in the findings rendered by lower appellate Court below which are based upon appreciation of oral and documentary evidence much less no substantial question of law arises for adjudication of the present appeal.

Dismissed.

13.11.2018  
rimpal/dkp

**(AMIT RAWAL)**  
**JUDGE**

Whether speaking/reasoned: Yes/No  
Whether reportable: Yes/No