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

**RSA-2525-2016 (O&M)
Date of decision : 07.02.2018**

Rajwant Kaur

... Appellant(s)

Versus

Kuldeep Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.K. Arora, Advocate
for the appellant(s).

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby the suit claiming declaration to be owner and in possession of the house/suit property, as indicated in the plaint, on the basis of the unregistered will dated 14.08.2005 executed by Arur Singh his uncle and father of the respondent(s)-defendant(s), has been dismissed.

Mr. S.K. Arora, learned counsel appearing on behalf of the appellant-plaintiff submits that one of the sons of Arur Singh was living abroad and it was the appellant-plaintiff, who was looking after Arur Singh and out of the services rendered, the Will, aforementioned, was executed. Both the Courts below have discarded the Will on the premise that Arur Singh used to append his signatures in English Language, whereas the Will bore the signatures in Punjabi. It is a common practice that a person sometime signs in English Language or in Punjabi, but the fact of the matter

is that the signatures were of Arur Singh and therefore, the Will should not have been discarded. Before the lower Appellate Court, an application under Order 41 Rule 27 CPC was filed for placing on record one pronote bearing the signatures of Arur Singh in Punjabi Language, but the same has also erroneously been dismissed, thus, urges this Court for setting aside the concurrent findings under challenge.

I have heard the learned counsel for the appellant-plaintiff and appraised the paper book. As regards moving of the application under Order 41 Rule 27 CPC, in case, the aforementioned pronote is allowed, it would tantamount to *de novo* trial and filling up the lacuna in the evidence, which cannot be permitted, particularly when the plaintiff had laid a claim to the property on the basis of the Will. If he was aware that Arur Singh had been appending his signatures in Punjabi, pronote could have been placed on record while leading in evidence in affirmative. In my view, the lower Appellate Court has rightly rejected the application.

On the merits, the plaintiff was required to lead direct and cogent evidence that Arur Singh used to append his signatures in English, whereas the Will bore signatures in Punjabi. The Will was also unregistered, therefore, the suspicious circumstance weighed in the mind of the Courts below while dismissing the suit.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below as the same are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and accordingly, the present regular second appeal is

dismissed.

07.02.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No