

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

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**CM-7876-C-2016 in/and
RSA-2919-2016 (O&M)
Date of Decision : 20.08.2018**

Mukhtiar Singh (deceased) through LRs. Appellants

Versus

Bahadur Singh (deceased) through LRs. and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Rajinder Kumar Singla, Advocate
for the appellants.

AJAY TEWARI, J. (ORAL)

CM-7876-C-2016

For the reasons recorded, the application is allowed. Delay of 21 days in refiling the appeal is condoned.

RSA-2919-2016 (O&M)

This appeal has been filed against the concurrent judgments of the courts below dismissing a suit filed by the predecessor of the appellants.

The issue relates to the estate of Swaran Singh, the common ancestor of the party. The case of the predecessor of the appellants was that Swaran Singh executed a Will in the year 1980 whereby he had divided his land and houses equally in favour of his three sons. The case

was contested only by Balwinder Singh (who was a grandson of Swaran Singh). It was his case that in fact Swaran Singh had executed a Will in the year 2001 whereby he had left all his agricultural land to him and divided his houses between his three sons. Admittedly, both the Will were registered documents. The courts below having held that the Will of the year 2001 was a valid Will dismissed the suit of the predecessor of the appellants (which was based on the Will of the year 1980) and that is how the appeal has been filed before this Court.

Counsel for the appellants has argued that the Will of the year 2001 was surrounded by suspicious circumstances. Both the courts below have considered the circumstances pointed out but have held that they do not dent the credibility of the Will and before me this is pure question of fact. Counsel for the appellants has taken me through the testimony of Sohan Singh who was an attesting witness of the Will of the year 2001 and has pointed out that Sohan Singh had admitted that he had been removed as a Nambardar because he had fabricated some documents. That fact by itself would not completely erode his testimony. Another very telling circumstance which goes against the appellants is the fact that alongwith the appellants there was one other son of Swaran Singh namely Santokh Singh who had also been denied the share in the land but that Santokh Singh never agitated the same.

In the totality of circumstances, I am not persuaded persuaded that the findings recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify the interference of this Court in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 20, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No