

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

**RSA No.3139 of 2016 (O&M)  
Date of Decision.12.11.2018**

Resham Kaur (since deceased) through LRs .....Appellants

Vs.

Baljit Singh and others ...Respondents

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

Present: Mr. Vikas Gupta, Advocate  
for the appellants.

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**AMIT RAWAL J. (ORAL)**

The appellants are none else but the legal representatives of plaintiff Resham Kaur (since deceased), who had instituted the suit in 2010 asserting her right as co-sharer in the estate of Sukhchain Singh, being the mother.

The suit aforementioned was filed against the defendant i.e. sons and daughters of Sukhchain Singh. The defendants propounded unregistered Will dated 23.12.2008, which has been believed by the trial Court and affirmed by the lower Appellate Court.

Mr. Vikas Gupta, learned counsel appearing on behalf of the appellant submitted that no doubt Resham Kaur at the time of institution of the suit was aged 90 years and has since now died, the Will suffered from various suspicious circumstances as there is no reflection of disinheritance of the mother, who was natural heir of son. In case the Will is discarded, she would have had a right to succeed as succession opened on demise of her son. The witnesses of the Will had not been consistent and not complied with the provisions of Section 63-C of the Indian Succession Act as to whether they had

seen the testator signed the Will or appended their signature on his direction.

I am afraid aforementioned argument of Mr. Gupta is not sustainable as Sukhchain Singh died on 06.02.2009 whereas the Will was executed on 23.12.2008, thus, there cannot be a spark of suspicion. Attesting witnesses of the Will have been consistent and coherent despite extensive cross-examination. The ingredients of fraud and misrepresentation as per Order 6 Rule 4 CPC have also not been proved. Notional partition as expressed at the time of filing of the suit, *vis-à-vis* estate of Sukhchain Singh alleged to have died intestate had not been proved. In such circumstances, other legal representatives cannot assert right in the estate of Sukhchain Singh.

As an upshot of my finding, arguments of Mr. Gupta have not been able to cut ice to bring the case within the realm of illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The second appeal is dismissed.

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

**November 12, 2018**  
Pankaj\*

Whether Reasoned/Speaking      Yes/No

Whether Reportable                      Yes/No