

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

**RSA No.3430 of 2016 (O&M)
Date of Order:17.05.2018**

Suleman

..Appellant

Versus

Sharif Khan

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Subhash Rana, Advocate, for
Mr. Sanjeev Kumar Panwar, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

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

Estate of Late Sh. Sukha who died on 02.03.1973, is in dispute. The suit was instituted on 16.03.2009. Mutation of the property left by late Sh. Sukha was sanctioned on the basis of a registered Will dated 22.06.1966 in favour of the defendant who was son of the daughter of late Sh. Sukha. Plaintiff claims that he is also son of another daughter of late Sh. Sukha. However, no evidence was produced to prove that his mother was daughter of late Sh. Sukha.

PW2 Balu, who had appeared on behalf of the plaintiff has admitted that it is the defendant, who is in exclusive possession of the property and has constructed house thereupon and residing therein. It has further been admitted by Sh. Balu that the plaintiff was born at Sholaka and is residing therein.

Defendant is continuously recorded as owner in possession in the revenue record from 1984 till the filing of the suit. Apart from other things, the suit filed by the plaintiff was hopelessly barred by time as the entry in the revenue record after the death of late Sh. Sukha was changed on the basis of a testamentary document and the defendant continued to be recorded as owner in possession of the property.

No doubt, the registered Will could not be proved as no attesting witness was available, however, since the plaintiff failed to prove fundamental fact that he is grand son of late Sh. Sukha, therefore, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

May 17, 2018
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(ANIL KSHETARPAL)
JUDGE

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