

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4110 of 2016(O&M)
Date of Decision-27.07.2018

Amarjit Singh etc. ... Appellants
Versus
Jagjit Singh etc. ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajan Bansal, Advocate
for the appellants.

RAJ MOHAN SINGH, J.

[1]. Plaintiffs are in second appeal against the concurrent judgments and decrees passed by the Courts below, dismissing the suit of the plaintiffs for declaration and permanent injunction.

[2]. Plaintiffs pleaded that they along with defendants are owner in possession of 19 kanals, 19 marlas of the suit land being heirs of Amrik Singh. The Will dated 07.05.2007 registered on 21.06.2007 in favour of defendant No.1 is illegal. Plaintiff also sought restrain qua alienation of the suit property.

[3]. The suit was contested by the defendants by pleading that Amrik Singh was the owner. He executed valid Will. Defendant No.1 constructed the house on the land after due execution of Will in the presence of Amrik Singh.

[4]. Both the Courts below found due execution of Will with reference to testimonies of Budh Ram, attesting witness (PW 1) and Madan Lal, Scribe (PW 2). No suspicious circumstance was

found in the execution of the Will. Even the witness of the plaintiff i.e. PW 6 Gurmail Singh who is none-else but the brother of the plaintiff admitted during cross examination that defendant No.1 is residing in the property in dispute where he has constructed a house. He also admitted that defendant No.1 used to serve Amrik Singh.

[5]. Perusal of the pleadings and material on record would show that the Will in respect of 5 marlas of property executed by deceased Amrik Singh in favour of Jagjit Singh is the subject matter of challenge at the instance of the plaintiff. Jagjit Singh was rendering the services to his father. The Will was scribed on 07.05.2007 and was registered on 21.06.2007. The photograph of Amrik Singh was duly affixed on the Will at the time of registration. As regards the mental state of health of the executant, no witness has deposed that the deceased was incapacitated for executing the Will in question. The testimony of PW 6 Gurmail Singh brother of the plaintiff further made it clear that the Will was not surrounded by any suspicious circumstance as defendant No.1 was serving Amrik Singh and had constructed the house on the suit property with the concurrence of Amrik Singh. The attesting witness Budh Ram has stepped into witness box as PW 1 in order to prove the ingredient of due execution of Will. Similarly Madan Lal, Scribe (PW 2) has also deposed in respect of due execution of Will. No other circumstance could be pleaded and proved by the plaintiff in order to show that Will was

shrouded with any suspicious circumstance in terms of its execution and registration.

[6]. The findings recorded by the Courts below are found to be on correct parameters on appreciation. The appreciation of facts made by both the Courts below cannot be re-appreciated under the scope of regular second appeal as the findings recorded by the Courts below are not on account of misreading of evidence or suffered with any perversity. No law point worth consideration is involved in the present appeal and the same is accordingly dismissed in limini.

(RAJ MOHAN SINGH)
JUDGE

27.07.2018
Prince

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No