

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

RSA No.4305 of 2016 (O&M)

Date of Order:29.11.2018

Gaurav Wadhwa and another

..Appellants

Versus

Bishan Devi and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saurabh Garg, Advocate,
for the appellants.

Mr. S.K.Garg Narwana, Sr. Advocate, with
Mr. Kshijit Bharati, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

C.M.No.11190-c-2016

Delay of 305 days in filing the appeal is condoned as counsel for the respondents does not have any objection provided the appeal is heard and decided today itself.

MAIN

Counsels have been heard at length.

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

Dispute in the present case is with respect to the estate of Narain Dass, which he bequeathed through registered Will dated 24.03.2000 in favour of his wife Smt. Bishan Devi, who later on became widow. It is specifically recorded in the registered Will that after his death, Smt. Bishan Devi, his wife, shall be absolute and complete owner of the property and no one else would have any right, title or interest. Of course, in the subsequent sentence, it is also mentioned that after the death of his wife Smt. Bishan

Devi, property would stand bequeathed in favour of his two grand sons, plaintiffs-appellants herein. However, the registered testament which is not disputed, it is nowhere recorded that there would be any restriction to transfer the property by Smt. Bishan Devi during her life time.

There is further development which clearly proves that Smt. Bishan Devi was always acknowledged to be absolute owner of the property. There are 5 sale deeds which are executed in between the parties on 23.04.2008, registered on 25.04.2008. Through, Ex.D2, which is under challenge, Smt. Bishan Devi has executed a registered sale deed with respect to land measuring 28 kanals and 2 marlas in favour of Renu Rani. On the same day, there are 4 other sale deeds, which have been executed by brother-in-law of Renu Rani, Harish DW7, husband of Renu Rani, Ex.D6 and father-in-law of Renu Rani, Ex.D5 and on all these sale deeds marginal witness is father of the plaintiffs-appellants, namely Madan Lal. 5th sale deed is by Madan Lal in favour of Renu Rani. All these sale deeds are registered at Sr. Nos.30 to 34.

In such circumstances, the suit filed by the plaintiffs, taking a somersault and pleading that Smt. Bishan Devi was only having limited estate is clearly an after thought. Still further, once there is no restriction on the rights of Smt. Bishan Devi to sell the property during her life time after she had become owner in accordance with the testamentary disposition, there is no reason to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

November 29, 2018

(ANIL KSHETARPAL)
JUDGE

nt

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No