

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

**RSA-4742-2016 (O&M)
Date of Decision: May 08, 2018**

Mam Chand (Deceased) through his LR

...Appellant

Versus

Smt. Lachho and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Kul Bhushan Sharma, Advocate,
for the appellant.

ARUN PALLI, J. (ORAL)

Vide judgment and decree, dated 10.07.2013, the suit filed by the plaintiff was dismissed by the Trial Court. As even the appeal preferred against the said decree, failed and was dismissed by the Appellate Court, on 01.12.2015, the plaintiff is in Regular Second Appeal. The parties to the *lis*, hereafter shall be referred to their original position in the suit.

The dispute is qua the estate of Jorawar @ Kalwa @ Kallu, son of late Shri Mukandi. The plaintiff happen to be the son of the deceased and the defendants are his daughters and widow. Plaintiff claimed the property of the deceased, situated in village Rundhi, Tehsil Palwal, District Faridabad, on the basis of a Will, dated 26.05.2005 (Ex. P-3), alleged to have been executed by the deceased. It is not disputed that by virtue of another Will, dated 05.06.2002 (Ex. P-1), the property held by the deceased in village Deeghot, had since been bequeathed in his favour. However, on a consideration of the matter in issue, and the evidence on record, both the courts concurrently concluded that plaintiff failed to prove that the Will

witness thereto, namely, Jeet Ram, Lambardar (PW-6), testified in his deposition, that he had only signed the Will as regards the land situated in village Deeghot, and had never signed the Will qua the land, situated in any other village. Likewise, the other attesting witness of the Will, Maan Singh (PW-7), specifically deposed that he never signed the Will as regards the land situated in village Rundhi. And he had never gone to village Hodal, where the Will (Ex.P-3), was alleged to have been executed. Even though both the attesting witnesses of the Will, did not support the case of the plaintiff, but yet they were not declared hostile, and never cross-examined. Even otherwise, nothing was brought on record to show as to why these witnesses would depose falsely. Not just that, Nawal Singh, Advocate, Notary Public (PW-1), who attested the Will (Ex.P-3), failed to produce his register, containing the entry as regards attestation of the Will (Ex.P-3), thus, the plaintiff not only failed to prove the due and valid execution of the Will (Ex.P-3).

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at by both the courts were either contrary to the record or suffered from any material illegality, no question of law, much less any substantial question of law arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

May 08, 2018
P Kapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO