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

**RSA No.5000 of 2016 (O&M)
Date of Decision:14.08.2018**

Avtar Singh

.....Appellant

Vs

Bahadur Singha and others

....Respondents

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

Present:Mr. Sham Lal Bhalla, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Plaintiff No.1 is in Regular Second Appeal in a suit for joint possession and permanent injunction.

[2]. Plaintiffs claimed joint possession to the extent of half share left by deceased Dalip Kaur in a total land measuring 89 *Bighas* 11 *Biswas*. Permanent injunction was sought restraining the defendants No.1 and 2 from alienating the suit property.

[3]. Plaintiffs alleged that Dalip Kaur was owner of half share. She was related to the plaintiffs. Dalip Kaur was *Bua* of defendants No.1 and 2. Defendant No.3 was grandson of Dalip Kaur. Defendant No.4 was daughter of Dalip Kaur, whereas

defendants No.5 and 6 were daughter and son of Baljit Kaur daughter of Dalip Kaur. Defendant No.7 was son of Balbir Singh son of Dalip Kaur. The aforesaid relationship between the parties would show that the parties were closely related.

[4]. Dalip Kaur executed a Will dated 19.08.1986 in favour of plaintiffs and defendants No.1 and 2. Plaintiffs asserted that plaintiffs and defendants No.1 and 2 were serving Dalip Kaur and the Will was executed on account of love and affection. Dalip Kaur died on 03.08.2005. On the basis of aforesaid Will, the suit was filed.

[5]. The suit was contested by the defendants on the ground that the mutation was sanctioned in favour of defendants No.1 and 2 by the Assistant Collector, 2nd Grade Amloh, after due and proper inquiry on the basis of Will dated 19.08.1986. Subsequent to the said Will, second Will dated 19.09.2003 was executed by Dalip Kaur in favour of defendants No.1 and 2. There was a specific recital of cancellation of earlier Will dated 19.08.1986 in the subsequent Will dated 19.09.2003.

[6]. By examining sukhwinder Singh attesting witness of the said Will as DW-1 and Pardeep Kumar Sharma, Deed Writer, who scribed the said Will as DW-3, cancellation of first Will dated 19.08.1986 was duly proved on record. DW-1 and DW-3

were duly cross-examined by the plaintiffs, but nothing incriminating could be extracted from their testimonies.

[7]. The appreciation of evidence recorded by the Courts below cannot be re-appreciated in the Regular Second Appeal. Execution of Will dated 19.09.2003 has been established on record. No law point worth cognizance is involved in the present appeal, consequently, the same is dismissed in *limine*.

[8]. Since the appeal has been dismissed on merits, therefore, there is no need of passing any order in the application for condonation of delay of 100 days in re-filing the present appeal.

August 14, 2018	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No