

RSA-5141-2016 (O&M)

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

**RSA-5141-2016 (O&M)
Date of decision : 29.11.2018**

Puran Devi (deceased) through LRs

... Appellant

Versus

Bhagi Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Himani Kapila, Advocate for the appellant.

AMIT RAWAL, J.

The appellant-plaintiff has not been successful in claiming the right in the property of her father-Sansar Singh by laying challenge to the mutation in favour of defendant Nos.1 and 2 being her brothers.

It was alleged that the property at the hands of Sansar Singh was ancestral. He had two wives, namely, Krishna Devi and Dharmo Devi, thus, the entire property could not have bequeathed by virtue of the registered Will dated 18.02.1975 in favour of defendant Nos.1 and 2.

The defendants opposed the suit and supported the Will and denied the nature and character of the property being ancestral.

The suit was dismissed by the trial Court and affirmed by the lower Appellate Court.

Learned counsel for the appellant submitted that the revenue record placed on record established the nature of the property as ancestral, even if it was not so. Sansar Singh had died intestate and the plaintiff is none-less, but daughter, as per Schedule I attached to Section 8 of the Hindu Succession Act, being Class-I heir. The Will was surrounded by suspicious circumstances.

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I am afraid the aforementioned argument is not sustainable as Sansar Singh died on 20.10.1984, whereas the suit was filed in the year 08.10.1997. Revenue record established only ownership of Sansar Singh. No revenue excerpt, which is mandatory requirement of law to establish the nature and character of the property having inherited from 3rd generation to the plaintiff being 4th generation in lineage, has been placed and proved on record. Even if, it was ancestral, the amendment conferring right to a daughter in ancestral property accrued only in the year 2005. Be that as it may, the question revolves whether the Will propounded by the defendants had been proved or not. The plaintiff miserably failed to prove the suspicious circumstances as the Will has been proved by the attesting witness, much less, it was a registered document. Even the signature/thumb-impressions of Sansar Singh has not been belied or proved to be forged or an act of impersonation. In such circumstances, the Courts below had no other occasion, but to dismiss the suit.

As an upshot of my finding, I do not subscribe to the submissions of Ms. Kapila to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out. Resultantly, the second appeal is dismissed on the ground of limitation as well as on merits.

29.11.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**