

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.5168 of 2016

Date of Decision: November 16, 2018

Ravinder Pal Singh

...Appellant

Versus

Gurnam Kaur & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Hardeep Singh, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff has not been successful in seeking separate possession of 1/8th share regarding the estate of his father Mohinder Singh, who is stated to have died intestate, whereas others are mother and brother. It was alleged that Mohinder Singh died on 06.07.2002 intestate and appellant, being the son, was entitled to 1/8th share along with other siblings.

Defendant Nos.1 and 2 contested the suit, but maintained the registered Will dated 24.11.1994 and as well as the consent decree dated 15.06.1996.

On the basis of the evidence, the trial court dismissed the suit. Plaintiff was not successful before the Lower Appellate Court.

Mr. Hardeep Singh, learned counsel appearing on behalf of the appellant-plaintiff submitted that both the courts below have failed to notice that the Will was suffering from suspicious circumstance as undue influence was played upon Mohinder Singh at the time of execution of the Will, for,

reason for disinheriting the appellant-plaintiff and other son was that they were doctors and the beneficiary was a Clerk. DW-1 Subash Mathur, attesting witness was also not consistent. All these facts created doubt regarding the genuineness of the document.

I am afraid, the aforementioned argument is not sustainable. Even if the Will was discarded, the decree dated 15.06.1996 in favour of defendant No.2 still subsists. It is a matter of record that Mohinder Singh, during all this period, remained alive and had died only in 2002. If at all, some fraud had been played, he would have definitely challenged the same by recalling of the consent decree or some independent proceedings. In such circumstances, it cannot be held that Mohinder Singh died intestate.

For the reasons stated above, I do not find any illegality or perversity in the concurrent findings of the courts below, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

November 16, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No