

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

108

RSA-621-2016 (O & M)
Date of Decision:26.09.2018

Amrawati

...Appellant

Versus

Surender Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jai Vir Yadav, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

CM-1706-C-2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 7 days in filing the appeal is condoned.

Application is allowed.

Main Case

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below dismissing her suit for declaration and in the alternative for possession.

Dispute in the present case is with regard to the estate of Jai Narain, who died on 08.12.2005. Plaintiff-appellant, who is daughter of late Sh. Jai Narain claims property on the ground that the property is coparcenary and Jai Narain had no right to execute the Will in favour of his nephews.

As regards Will, the defendants have examined attesting witness as well as scribe, who have proved the Will in accordance with

Section 68 of the Evidence Act.

Still further, the Courts have found that the Will also bears the photograph of the executant who was educated having retired from Border Security Force.

As regards coparcenary, it may be noted that original owner was Dhukal @ Dhokal, grand father of the plaintiff, who died somewhere in the year 1962 and mutation of the land was sanctioned in favour of all Class-I heirs including daughters. The aforesaid mutation is Ex.P-3 on the file. Since after the Hindu Succession Act came into force, property was inherited by Jai Narain under Section 8 of the Hindu Succession Act, coparcenary if any existed, ceases to exist and Jai Narain, who succeeded the property under Section 8 of the Hindu Succession Act became owner of the property. This issue has been dealt in detail by the Court in the judgment **“Maan Jain vs. Suraj Parkash Jain and others”** in RSA No.6253 of 2014.

In view of the aforesaid, no ground to interfere.

Regular second appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

26.09.2018

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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No