

RSA-7000-2016

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

RSA-7000-2016

Date of decision : 12.11.2018

Jasveer Singh

..... Appellant

versus

Karnail Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Kaushal, Advocate for the appellant.

AMIT RAWAL, J. (ORAL)

Appellant-plaintiff has not been successful in claiming a declaration that he along with defendants No. 1 to 3 being brothers and sons of Bhag Singh had right to succeed to his estate in respect of land situated in village Jhutti Khera, Tehsil Dabwali, District Sirsa.

It was alleged that on demise of Bhag Singh in the year 1982 in respect of the property situated in village Mat Dadu, mutation of inheritance was effected on the basis of Will dated 2.7.1982 but the mutation with regard to the land situated in other village was effected on the basis of natural succession which was not in accordance with law and, therefore, there is an illegality and perversity in the judgments of the Courts below.

Learned counsel submitted that the Courts also negated the plea of the plaintiff as the original Will had not been placed on record though a certified copy of the same was produced from the office of Sub Registrar.

Neither any application for leading secondary evidence was moved. In the

absence of any challenge with regard to the mutation in respect of property situated in village Mat Dadu, the Will is deemed to have been admitted.

I am afraid that the arguments advanced by learned counsel are not sustainable, for it was obligatory upon the plaintiff to discharge the onus as per the provisions of Section 101 of the Indian Evidence Act. An effort should have been made to move an application under Section 65 of the Indian Evidence Act and prove the signature or thumb impressions of Bhag Singh on the Will muchless existence and loss thereof. It would be inconsequential in case the mutation in respect of other village was claimed on the basis of Will. This is precise what has been held by both the Courts below. Arguments of learned counsel have not been able to bring the case within the realm of illegality and perversity enabling this Court to form a different opinion other than the one arrived at by the Courts below. No ground for interference is made out.

Appeal is dismissed.

(AMIT RAWAL)
JUDGE

12.11.2018
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No