

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

RSA No.942 of 2016 (O&M)

Date of decision:19.11.2018

Manjeet Kaur

... Appellant

Vs.

Charanjit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Manmohan Kaur, Advocate for
Mr. Amitoj Singh Dhaliwal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.2584-C of 2016

For the reasons stated in the application which is duly supported by an affidavit, delay of 9 days in re-filing the appeal, is condoned.

C.M. stands allowed.

RSA No.942 of 2016 (O&M)

The appellant-plaintiff/Manjeet Kaur has not been successful in claiming joint possession and ownership, much less injunction in respect of the suit property referred to in the plaint on the basis of natural succession.

It was alleged that Mukhtiar Singh was owner of the suit property and defendant is the maternal grandson of Mukhtiar Singh and son of plaintiff. On demise of Mukhtiar Singh, defendant has succeeded in getting mutation no.5554 sanctioned in his favour in respect of the suit

property on the basis of forged and fabricated Will dated 24.05.2006.

The defendant opposed the suit and stated that the Will is a registered document and scribed by Baldev Singh, document writer and witnessed by Charan Singh, Lambardar and Harjinder Singh. Mukhtiar Singh after understanding the contents of the Will, had appended thumb impressions. It was registered with the office of Sub-Registrar. Mukhtiar Singh died in November, 2011.

Learned counsel appearing on behalf of the appellant-plaintiff submitted that Will was surrounded by suspicious circumstances as no reason has been assigned to disinherit the daughter and therefore the property was mutated in the name of son. The witnesses were strangers to the relations of the family, therefore, could not have been referred to as the witnesses. Mukhtiar Singh was not having good health, rather at that time, had fractured his leg and was not in conscious state of mind to execute the Will.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, the plaintiff has not been able to prove the alleged suspicion with regard to execution and registration of the Will as suffering of leg fracture does not dis-orient the person from execution and registration of the Will. The provisions of Section 68 of Indian Evidence Act, and Section 63(c) of Indian Succession Act, have been proved on record.

It is strange that mother has challenged the mutation of the property of her father in favour of Charanjit Singh as her brother had already pre-deceased Mukhtiar Singh.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 19, 2018
savita

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