

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

RSA No.1186 of 2017 (O&M)

Date of decision:01.02.2018

Baldev Kaur

...Appellant

Vs.

Baljit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ravi Gakhar, Advocate, for
Mr. Gurpreet Jayia, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, suit for declaration of ownership to the extent of 1/4th share i.e. 1/12 share each in the land measuring 38 kanals 6 marlas situated in village Neelowal and 1/2 share i.e., 1/6th share each in the land measuring 71 kanals 7 marlas situated in village Chhajli and consequential challenge to the mutation on the basis of the Will dated 01.08.2001 executed by Jangir Kaur, (her mother) in favour of defendants No.5 and 6 with a consequential relief of joint possession and permanent injunction, has been dismissed by both the Courts below.

Learned counsel for the appellant-plaintiff submitted that though the said Will was challenged in the plaint but during the course of evidence, it was found that scribe of Will was not coherent and consistent

with the contents and affidavit submitted in the shape of the evidence. No reason has been assigned of divesting the title of ownership in favour of the appellant, who was none-else but daughter of Jangir Kaur. In fact, the property was owned by Kirpal Singh and after his death, the same devolved upon the plaintiff, defendants no.5 and 6 being daughters and Jangir Kaur, widow in equal share. Jangir Kaur died on 17.02.2004. Defendants No.5 and 6 on the basis of the Will, had transferred the property in favour of defendants No.1 to 4. It is in this background of the matter, the said mutation was challenged. All the aforementioned facts have not been taken into consideration, therefore, there is illegality and perversity in the judgments and decrees under challenge.

I have heard the learned counsel for the appellant-plaintiff, appraised the impugned judgments and decrees of the Courts below and of the view that the Will dated 01.08.2001 being registered one had been proved through the testimony of attesting witnesses – Bhagwant Singh, and Balwinder Singh- DW2. Amarjit Singh Joshi -deed writer has also appeared as DW3. All the witnesses were coherent and specific. The defendants had also examined the expert, i.e., Inderjit Singh DW5, who verified the thumb impressions of Jangir Kaur. The plaintiff could not stake the claim in the property at the hands of her father, particularly when it was mutated in the name of Jangir Kaur, who was absolute owner in view of the provisions of Section 14(1) of Hindu Succession Act, thus, she can deal with the property in any manner she wanted to.

In my view, the appellant-plaintiff has not been able to prove the alleged forgery and fabrication of the Will though challenged half-heartedly in the plaint.

In view of the aforementioned observations, I do not find any illegality and perversity in the findings under challenge, much less, no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

February 01, 2018
savita

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