

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 5.9.2018.

RSA No. 4387 of 2014(O&M)

Daljit Kaur through LRs and another

---Appellants

versus

Jagsir Singh and others

---Respondents

RSA No. 4797 of 2014(O&M)

Daljit Kaur through LRs and another

---Appellants

versus

Jagsir Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Harkaran Singh, Advocate
for the appellants**

Rekha Mittal, J.

This order will dispose of RSA Nos. 4387 and 4797 of 2014 as identical questions of law and fact are involved for adjudication and the same have emerged out of the common judgments and decrees passed by the courts.

The present lis pertains to inheritance to the estate of Arjan Singh (since deceased) who admittedly left behind his widow, four daughters namely Jaspal Kaur, Jarnail Kaur, Nachhattar Kaur, Paramjit Kaur and one son namely Sh. Jagtar Singh. Sham Kaur and others filed Civil Suit

No. 793 dated 7.3.2003 claiming inheritance to the estate of Sh. Arjan Singh on the basis of natural succession whereas the defendants-appellants, successors-in-interest of Sh. Jagtar Singh son of Arjan Singh propounded Will dated 24.12.1985 purported to be executed by the deceased, to the exclusion of other class -I heirs i.e., widow and daughters of said Arjan Singh. The Courts have discarded will dated 24.12.1985 propounded by the appellants.

Counsel for the appellants would argue that the original Will got misplaced as the same was produced for the purpose of sanction of mutation. The appellants filed an application for permission to lead secondary evidence to prove the Will in question and the same was allowed. It is argued that the courts have wrongly rejected the Will for the reason that the original Will has not been produced on record.

I have heard counsel for the appellants, perused the paper books and records.

Indisputably, two civil suits filed by different set of parties but raising the same controversy with regard to inheritance to the estate of Sh. Arjan Singh were decided together vide judgment and decree dated 8.2.2013 passed by the trial court and two separate appeals preferred by the appellants to assail the judgment and decree dated 8.2.2013 did not find favour with the Additional District Judge, Moga.

Perusal of the judgments would reveal that there is no dispute between the parties with regard to relationship of Sham Kaur and others with Sh. Arjan Singh and so also Sh. Arjan Singh had one son namely Jagtar Singh (since deceased), succeeded by Smt. Daljit Kaur widow and Balwinder Singh son. The primary dispute between the parties is, whether

the deceased left behind Will dated 24.12.1985 in favour of Jagtar Singh, his son. Counsel would fairly concede that the appellants did not examine either of the attesting witnesses of the Will to prove the same, in accordance with Section 68 of the Indian Evidence Act, 1872 (in short “the Act”). The trial court in para 23 has adverted to the requirements of Sections 68 and 69 of the Act for proving a document which requires attestation in law. As the appellants failed to prove the Will, in accordance with law, no error much less perversity can be found in consistent findings of the courts rejecting the Will dated 24.12.1985 and allowing inheritance to the estate of Sh. Arjan Singh, on the basis of natural succession in the light of provisions of the Hindu Succession Act, 1956.

For the foregoing reasons, the appeals fail and accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

5.9.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No