

RSA-1730-2017 (O&M)

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

RSA-1730-2017 (O&M)
Date of decision : 29.11.2018

Amar Singh and another

... Appellants

Versus

Amandeep Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Nand Lal Sammi, Advocate
for the appellants.

AMIT RAWAL, J.

CM-4162-C-2017

For the reasons stated in the application, the delay of 45 days in
refiling the appeal is condoned.

CM stands disposed of.

CM-4163-C-2017

For the reasons stated in the application, the delay of 7 days in
filing the appeal is condoned.

CM stands disposed of.

RSA-1730-2017

The appellants-plaintiffs have not been successful in claiming
declaration viz-a-viz estate of Raghbir Singh being brother qua 1/5th share,
which has been inherited by the defendants by propounding unregistered
Will dated 14.08.1999.

Learned counsel appearing on behalf of the appellants-plaintiffs

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submitted that Raghbir Singh was unmarried and issue-less. The plaintiffs and the defendants are the brothers and sisters of Raghbir Singh. Being collateral, his share devolved upon all brothers and sisters in equal share. The unregistered Will dated 14.08.1999 propounded was suffering from suspicious circumstances. It is unbelievable that Raghbir Singh, who died at the age of 28 years, could execute Will.

I am afraid the aforementioned argument is not sustainable as the execution of the Will has been proved through the testimony of Ex-Sarpanch Jaswant Singh i.e. scribe and attesting witness Nachhattar Singh. Both the witnesses were extensively cross-examined, but nothing contrary or suspicious surfaced. In such circumstances, the Courts below had no other occasion, but to dismiss the suit by denying 1/5th share owing to compliance of statutory provisions of Section 68 of the Indian Evidence Act and Section 63 (c) of the Indian Succession Act.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Sammi to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

29.11.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**