

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

**RSA No.1959 of 2017 (O&M)
Date of Decision:23.10.2018**

Jagjit Singh and another

...Appellant(s)

Versus

Karnail Singh through his legal heirs and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Liaqat Ali, Advocate for the appellants.

ANIL KSHETARPAL, J.

CM-4661-C-2017

Learned counsel for the applicants-appellants submits that deficiency in court fee has already been made good.

Application is allowed.

CM-4662-63-C-2017

For the reasons stated in the applications, which are supported by affidavits, delay of 124 days in refiling as well as delay of 101 days in filing the appeal is condoned.

CMs stand allowed.

Main case

Defendants No.2 and 3-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

Bachan Singh was owner of the property. He executed a registered Will dated 13.5.1982 in favour of his wife Mohinder Kaur, who thereafter executed another registered Will dated 8.4.1988, bequeathing her entire property in favour of her nephew and daughter. As per the Will, out of two houses, one house was given to the plaintiff, whereas another house

was given to defendant No.1 Ranbir Kaur-daughter. The execution of the Will dated 8.4.1988 is not in dispute. As per the Will, agricultural land known as 'Bagwala Khet' measuring 13 kanal and 17 marla was given to nephew of the plaintiff, whereas land identified as 'Chaubada Khooh' was bequeathed in favour of the daughter. However, mutation of the agricultural land was wrongly entered. The plaintiff has prayed that the aforesaid mutation should be correctly entered as per the registered Will.

Defendants No.2 and 3 are undisputedly purchasers of the property during the pendency of the suit. Therefore, their sale is hit by the rule of lis pendence. The execution and registration of the Will dated 8.4.1988 is not in dispute. Defendants No.2 and 3-appellants cannot be heard particularly when the sale in their favour itself is during the pendency of the suit.

In view of the above, there is no ground to interfere with the concurrent findings of fact arrived at by both the courts below. The present regular second appeal is dismissed.

23.10.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No