

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

**RSA No.231 of 2017 (O&M)  
Date of decision:14.11.2018**

Arun Kumar

... Appellant

Vs.

Parmod Kumar Jain and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Rohit Ahuja, Advocate  
for the appellant.

**AMIT RAWAL J. (Oral)**

The appellant-defendant has not been successful in defending the suit for joint possession in respect of the suit property as both the parties to the lis have been conferred joint ownership on the basis of natural succession.

The appellant-defendant had set up a Will dated 21.1.2006 Ex.DX executed by his mother-Sushila Devi, whereby, the entire share has been bequeathed in his favour. The trial Court by discarding the Will, decreed the suit. The appellant-defendant was also not successful before the Lower Appellate Court.

Learned counsel appearing on behalf of the appellant submitted that both the Courts below have committed illegality and perversity in discarding the Will being not registered and on non-stamp paper, much less not written by a regular deed writer. The findings of the Courts below of

having not been written on the stamp paper or by a regular deed writer are not sustainable as there is no requirement of law. Both the witnesses of the Will have been examined and they have been consistent, thus, there is compliance of provisions of Section 68 of Indian Evidence Act and Section 63(c) of Indian Succession Act. The reasoning assigned in discarding the Will is most atrocious.

I am afraid the aforementioned argument is not sustainable in the eyes of law as appellant-defendant when appeared in cross-examination as DW3 admitted that mother had died at Sidhu Corner house and other brother Arun Kumar was also residing with Sushila Devi at that time. It has also come on record as compared to first line of Will, Ex.DX, there is more space as in central 8-9 lines. The aforementioned two reasons were sufficient for discarding the Will. Even the photocopy of the Will has also been seen in Court during the course of hearing. In such circumstances, the Court had no other option but to grant the status of joint possession.

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.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)  
JUDGE

November 14, 2018  
savita  
Whether Speaking/Reasoned  
Whether Reportable

Yes/No  
  
Yes/No