

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

RSA No. 1964 of 2018(O&M)

Date of decision: 24.4.2018

Lachhman Dass (since deceased) through his legal heirs
Santro Devi and othersAppellants

VERSUS

Om ParkashRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. P.S. Jammu, Advocate for the appellants.

REKHA MITTAL, J.(Oral)

CM No.5373-C of 2018

Prayer in this application is for condoning delay of 33 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Sonu, son of Lachhman Dass, the application is allowed. Delay of 33 days in filing the appeal stands condoned.

Disposed of accordingly.

RSA No.1964 of 2018

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit filed by Om Parkash son of Sh. Chander Bhan seeking declaration that he is owner of the suit house bearing Municipal House Tax Unit No.15/336 situated at Bhagat Singh Colony, Sirsa has been decreed, Will No.259 dated 12.08.2009 allegedly executed by Nathi Devi widow of Sh. Chander Bhan in favour of

Lachhman Dass – defendant (since deceased) is set aside and revenue record and municipal record, if any, entered and sanctioned on the basis of Will dated 12.08.2009 are declared wrong, null and void, not enforceable, having no effect on right of the plaintiff and liable to be cancelled. The appellant/defendant is restrained from alienating and creating any charge over the suit house.

The judgment and decree passed by the trial Court came to be affirmed in appeal by the Additional District Judge, Sirsa.

I have gone through the judgments passed by the Courts but find that concurrent findings recorded by the Courts do not suffer from error much less perversity nor give rise to a question of law that needs determination after notice to the contesting party.

Om Parkash- respondent/plaintiff has been held entitled to suit property on the basis of natural succession as after death of Nathi Devi widow of Chander Bhan, suit house would be inherited by the legal heirs of Sh. Chander Bhan, pre-deceased husband of Nathi Devi. There is no dispute that Om Parkash is the son of Sh. Chander Bhan born out of wedlock between Chander Bhan and his previous wife. Lachhman Dass, brother of Nathi Devi had set up a Will bearing No.259 dated 12.08.2009 in his favour but failed to prove the Will in accordance with law.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

APRIL 24, 2018

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no