

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

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**CM-6439-C-2017 in/and
RSA-2602-2017 (O&M)
Date of Decision : 04.07.2018**

Badri Nath Sharma

..... Appellant

Versus

General Public and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sanjiv Kumar Aggarwal, Advocate
for the applicant-appellant.

AJAY TEWARI, J. (Oral)

CM-6439-C-2017

For the reasons recorded, the application is allowed. Delay of 30 days in filing the appeal is condoned.

RSA-2602-2017 (O&M)

This appeal has been filed against the concurrent judgments of the courts below whereby a suit for declaration and mandatory injunction filed by the appellant was dismissed.

Brief facts of the case are that the Booth No.234, Sector 15-D, Chandigarh was allotted to one Baldev Raj Mahajan who died leaving behind five legal heirs. The appellant claimed that the aforesaid Baldev Raj Mahajan had willed the property in his favour because of services rendered. Both the courts below held that the Will did not disclose any reason why the aforesaid Baldev Raj Mahajan had disinherited all his children and had executed the Will in favour of a stranger.

Counsel for the appellant has vehemently argued that once Baldev Raj Mahajan mentioned that he had a great affection for the appellant who had provided him services, there is no further requirement for any reason to be disclosed in the Will as to why legal heirs were disinherited.

In my opinion, this is not a complete answer. A person may have a lot of love for a friend but this itself cannot be a reason for disinheriting his own children.

Counsel for the appellant has further argued that actually the fact of the matter is that none of the children of Baldev Raj Mahajan was looking after him. If this were so, there was nothing to stop the testator from mentioning it in the Will. In the circumstances, I am not persuaded that the findings of fact given by the courts below suffer from such perversity as to make them liable for interference in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

July 04, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No