

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

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**RSA-2881-2017 (O&M)
Date of Decision : 20.8.2018**

Balwinder Singh and others

....Appellants

vs.

Randeep Kaur and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mrs. Baljit Mann, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit filed by the appellants.

The case of the appellants was that they had inherited the property of their uncle by way of a Will. Both the Courts below held that respondent No.1 was proved to be the daughter of the uncle and further held that the omission to mention her in the Will was a gravely suspicious circumstance.

Learned counsel has argued that it was proved that within a couple of months after the marriage of their uncle his wife had abandoned him and infact the uncle had never even seen the daughter and at one stage the wife of the uncle had obtained divorce by mutual consent in which she had undertaken that she or her daughter would have no claim against their uncle. Moreover, that lady got remarried and in the entire record of education that girl was shown to be the daughter of the second husband. As per learned

counsel for the appellants, though in normal circumstances the omission to mention the daughter could have been taken to be suspicious circumstance but it is not so in the facts and circumstances of the present case because in the present case the uncle had never had any contact with the child and had probably never even seen her and therefore in his mind it was as if he had no children.

Looked at in isolation this argument has a certain attractiveness but there are other circumstances also. The Courts below noticed that in normal circumstance in our part of the country people do not execute Will at the age of 44. Moreover, the Courts came to the conclusion that it seems that thumb impression existed prior to the typing of the Will. The Courts below took notice of the fact that even the appellants had tried to put up a case that respondent No.1 was not at all the daughter of the uncle.

In the totality of the circumstances, I am not persuaded to hold that the findings of the Courts below are either based on no evidence or on such perverse misreading of the evidence so as to render them liable for interference in second appeal.

Consequently, the appeal stands dismissed.

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

20.8.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No