

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.288 of 2018 (O&M)

Date of decision: 15.01.2018

Harvinder Singh and another

..... Appellants

Versus

Gurcharanjit Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arun Takhi, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Dispute in the present case is with regard to the estate of Sucha Singh, father of the parties. The plaintiff filed a suit for declaration claiming half share in the property on the basis of natural succession whereas the defendants claim that Sucha Singh had executed a registered Will in their favour on 24.05.1999. The Will was attested by two witnesses namely Amar Singh and Kewal Singh. Both the attesting witnesses were not examined in the Court. Jagtar Singh has been examined who is relative of Kewal Singh, the alleged attesting witness. The defendants-appellants made an attempt to prove the Will by the evidence of Jagtar Singh who is relative of Amar Singh. Jagtar Singh was not able to identify the signatures of Amar Singh as he did not know Urdu and the signatures on the Will were in Urdu.

The Courts have further noticed that the defendants-appellants have failed to produce any evidence on record to prove that Kewal Singh is either dead or not available. No evidence was produced whether the second attesting witness was available or not.

In view of the aforesaid, the Courts have recorded a concurrent finding. Although, learned counsel for the appellants submitted that the institution of the suit is not proper as the suit was filed through Power of Attorney-Shaminder Kaur, who is wife of the plaintiff, however, this Court does not find any substance therein. An Attorney duly authorized can institute a suit on behalf of its principal.

Learned counsel for the appellants could not point out any error in the findings of the Courts below that the Will has not been proved in accordance with law.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

15.01.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No