

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

RSA No.2928 of 2018 (O&M)

Date of decision: 16.05.2018

Amarjit Singh

... Appellant

Versus

Jaswant Singh Dhillon and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. M.S. Khaira, Sr. Advocate with
Mr. D.S. Randhawa, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against the concurrent findings recorded by the Courts whereby suit filed by the appellant/plaintiff to claim 1/6th share in the property previously owned by Sh. Santokh Singh Dhillon, father of the appellant was dismissed by the trial Court by upholding registered Will dated 26.05.2011 propounded by the respondents/defendants and the judgment and decree passed by the trial Court have been affirmed in appeal by the Additional District Judge, Tarn Taran.

As per case set up by the appellant, plaintiff/appellant was born out of wedlock of Santokh Singh Dhillon and Gurdeep Kaur. After death of Gurdeep Kaur on 25.08.1945, Santokh Singh Dhillon performed second marriage with Surinder Kaur respondent No.5 and out of that

wedlock, respondents No.1 to 4 were born. The appellant has averred that Will dated 26.05.2011 alleged to have been executed by Santokh Singh Dhillon in favour of respondents No.1 to 5 is illegal, null and void, result of fraud, misrepresentation, impersonation and mere paper transaction prepared ante dated by respondents No.1 to 5 with connivance and conspiracy of alleged scribe and attesting witnesses of the Will.

The trial Court, on the basis of evidence adduced by the respondents/defendants particularly testimonies of Parvinderjit Singh DW1, scribe of the Will, Harjinder Singh DW2 and Tejinder Singh DW3, attesting witnesses of the Will recorded findings that the respondents have duly proved that registered Will dated 26.05.2011 was executed by the deceased in his sound disposing mind whereby he had excluded Amarjit Singh from inheritance.

Counsel for the appellant would argue that proving a Will in compliance with the provisions of Sections 68/69 of the Indian Evidence Act, 1872 is one thing and accepting the Will as an expression of genuine wish of the deceased/testator is another thing. It is argued that the appellant is also residing in USA and he had been visiting his father Sh. Santokh Singh Dhillon, therefore, there was no reason for his father to exclude him from inheritance. Another submission made by counsel is that Tejinder Singh, one of the attesting witnesses of the Will in his cross examination has deposed that he did not know whether Santokh Singh Dhillon was in fit state of mind 1½ years before his death and admitted that Santokh Singh

Dhillon was 93 years old when he executed the Will.

I have heard counsel for the appellant, perused the paper book particularly the judgments impugned and copies of statements of witnesses examined during the course of hearing to prove the Will, made available.

As has been noticed hereinbefore, the respondents examined Parvinderjit Singh deed writer, Patti, Tehsil Patti, scribe of the Will in question. In addition, the respondents examined both the attesting witnesses of the Will namely Harjinder Singh DW2 and Tejinder Singh DW3. Counsel for the appellant has not advanced any arguments, if statements of attesting witnesses are not sufficient to prove the Will in consonance with the provisions of Section 68 of the Indian Evidence Act, 1872. Sh. Santokh Singh Dhillon, father of defendants No.1 to 4 and husband of defendant No.5 was residing in USA. The Will in question was executed by him in India. There is nothing on record suggestive of the fact that any of the respondents/defendants was present in India at the time of execution and registration of Will dated 26.05.2011 by Santokh Singh Dhillon. The appellant did not prove that the Will does not bear signatures of the testator or the same is result of impersonation. It has been proved on record that the appellant had been residing separately since 1961. He filed civil suit against his father regarding suit land and kothi No.3312, Sector-15D, Chandigarh which was dismissed on 06.04.2001. The very fact that the appellant had been litigating against his father during his lifetime is a strong telling circumstance to have weighed with the testator to exclude the

appellant from inheritance. The Will was executed in India on 26.05.2011 but Santokh Singh Dhillon died on 08.08.2011 in USA. The mere fact that Tejinder Singh DW3 could not say if Santokh Singh Dhillon was in fit state of mind 1½ years before his death cannot be taken as sufficient to say that Santokh Singh Dhillon was not in a fit state of mind at the time of execution of Will in May, 2011.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed. Judgments and decrees passed by the Courts are affirmed.

No order as to costs.

16.05.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No