

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.3541 of 2017
Date of Decision.14.05.2018

Kamaljit Singh

.....Appellant

Vs

Manjit Kaur and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rakesh Gupta, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

The appellant-defendant No.1 is in regular second appeal against the decretal of suit seeking declaration and permanent injunction by laying challenge to the Will dated 17.5.2000 and order dated 17.09.2008 passed by the Revenue Court as per the Will *ibid*.

The suit aforementioned was filed by Manjit Kaur, mother of defendants claiming joint possession on the premise that she was legally wedded wife of Gurcharan Singh, who had executed a registered Will dated 19.05.2000 whereby making her and defendant No.1 as beneficiaries.

Mr. Rakesh Gupta, learned counsel appearing on behalf of the appellant submitted that the judgments and decrees of the Courts below in decreeing the suit are not sustainable in the eyes of law, as the witnesses of the Will were of the same village. The Will has not been proved as per the provisions of Section 68 of the Indian Evidence Act as well as Section 63(c) of the Indian Succession Act and the Will dated 17.05.2000 was also registered wherein entire property of Gurcharan Singh in Haryana had been bequeathed in favour of

defendant No.1 whereas the property which was left out of the Will would have automatically devolved upon the widow i.e. Respondent No.1-plaintiff, thus, urges this Court for setting aside the finding under challenge.

I have heard learned counsel for the appellant and appraised the paper book. Concededly, Gurcharan Singh died on 10.04.2008. The Will dated 19.5.2000 has been proved through the testimony of PW6, Harminder Singh, being the attesting witness, thus, there was compliance of Section 63(c) of the Indian Succession Act and deposited in terms of Section 68 of the Indian Evidence Act. PW4, Ravinder Singh, who drafted the Will had also proved the same and identified the signature of his grandfather, Sikander Singh. PW5, Harpal Singh, Registry Clerk also proved the factum of registration of the Will.

All these factors weighed in the mind of Courts below in forming opinion that Gurcharan Singh had executed the Will.

Now, the moot point raised for consideration is whether the subsequent Will dated 19.05.2000 as set up by the plaintiff was valid or the Will dated 17.05.2000. The contents of Will dated 17.05.2000 had also given particulars of property located in Haryana owned by Gurcharan Singh whereas with regard to Will dated 19.05.2000, the beneficiaries are both plaintiff and defendant No.1 in part. In my view, Gurcharan Singh distributed the property as per the Will dated 19.05.2000, which has been proved to the hilt.

In view of the aforementioned, I do not find any illegality and perversity in the concurrent finding rendered by the Courts below, much less, no substantial question of law arises for determination by

this Court. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 14, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No