

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

**RSA No.368 of 2017 (O&M)
Date of Decision:10.10.2018**

Heera Singh

...Appellant

Versus

Dharampal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

The dispute is with regard to the estate of Madi Devi widow of Moti Ram, who died leaving behind a testament dated 7.4.2000, bequeathing her property in favour of his son Dharampal. Another son namely Heera Singh has challenged the aforesaid testament. The testament has been proved by examining attesting witnesses namely Ram Avtar and Scribe Dayanand.

Both the courts have found that the testament has been proved, in accordance with Section 68 of the Indian Evidence Act, 1872.

Learned counsel for the appellant submits that Madi Devi had no right to execute the testament as the property was ancestral in nature.

This Court has considered the submission, however, find no substance therein as after the death of Moti Ram, 1/8th share of the property owned by Moti Ram had come to the share of Madi Devi in accordance with Section 8 of the Hindu Succession Act. Therefore, whatever had come to the share of Madi Devi that was her exclusive property, and therefore, she

was competent to bequeath the property by a testament.

In view of the above, there is no ground to interfere. The present regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

10.10.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No