

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA No.4355 of 2017 (O&M)

Date of Decision: November 26, 2018

Vikram Kumar & others

...Appellants

Versus

Randhir Singh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr. Balraj Singh Rathee, Advocate,  
for the appellants.

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**AMIT RAWAL, J. (Oral)**

Appellant-plaintiffs have not been successful in challenging the registered Will.

The sole argument which has been raised in the present appeal is as to whether registered Will Ex.P3 dated 19.12.2012 was in compliance with the provisions of Section 63 (c) of the Succession Act, 1925 or not.

Mr. Balraj Singh Rathee, learned counsel representing the appellant-plaintiffs submitted that though apparently the Will bears the attestation of two witnesses, i.e., Kamlesh and Ram Lal Nambardar, but in the testimony of Kamlesh, it has come on record that she was only present as the other witness was in the Tehsil office, i.e., for the purpose of registration, therefore, there was no compliance.

I have heard the learned counsel for the appellant-plaintiffs and appraised the paper book.

Section 63(c) of the Act reads as under:-

*“The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has been some other person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.”*

It is not necessary that both the witnesses should be present at the same time. It is also too farfetched to understand whether two attesting witnesses were not there at the time when the testator had appended the signatures in the presence of the witnesses. She, in cross-examination, categorically admitted that there was another witness whose name she did not remember. That does not mean that he was not present at the time of attestation. To a specific query raised by this court as to whether plaintiffs being the grand children of Khayali Ram, had been given any estate or not, the answer was that not in equal distribution.

For the reasons stated above, I do not find any illegality or perversity in the impugned judgments and decrees of the courts below. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

**November 26, 2018**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**