

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

RSA No.4394 of 2018 (O&M)

Date of Decision:26.07.2018

Faqir Singh and others

...Appellants

Versus

Pushpa Devi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Sunil Agnihotri, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-11632-CII and 11633-CII-2018

For the reasons mentioned in the applications, which are supported by affidavits, delay of 120 days in filing and 15 days in refiling the appeal is condoned.

Both CMs stand allowed.

Main case

The plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

The dispute in the present case is with respect to the estate of Natha Singh, who is stated to have died on 25.8.2006. The plaintiffs claimed that Natha Singh died intestate and the testament set up by the defendants is false, whereas the defendants, who are son and grand sons of Natha Singh, relied upon the aforesaid registered testament dated 28.2.2002 Ex.D4 on the file. The testament has been proved through the statement of DW1 Rashpal Singh, attesting witness. Mehar Singh, Scribe, has also been examined as DW-2. It has also come in the evidence that

when Natha Singh was alive, he got published in the newspaper that he was disinheriting his three other sons.

On appreciation of the evidence, the courts dismissed the suit filed by the plaintiffs challenging the testament, whereas counter claim filed by the defendants for possession has been decreed after returning a finding that the testament is proved, in accordance with Section 68 of the Indian Evidence Act, 1872.

This Court has heard the learned counsel for the appellants at length and with his able assistance gone through the judgments passed by the courts below.

Learned counsel for the appellants has submitted that Natha Singh, the testator, was 90 years old when the Will-testament was executed. He submitted that hence he was not in sound mind.

This Court has heard the submissions, however, do not find any substance therein. Natha Singh admittedly lived for 4 years and 6 months after execution and registration of the Will. Still further, no evidence has been produced to prove that Natha Singh was not in sound mind when he executed and got registered the testament.

In view thereof, there is no good ground to interfere with the concurrent findings of fact arrived at by the courts below. Regular Second Appeal is dismissed.

26.07.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No