

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

(160)

RSA-5164-2017 (O&M)

Date of Decision: October 30, 2018.

Lakha Singh

..Appellant

Versus

Baldev Singh and others

..Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. D.S. Pheruman, Advocate, for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff has not been successful in seeking declaration to be owner in possession of 1/9th share in the suit property of his father Ishar Singh against the defendants (hereinafter mentioned as brother and sisters) on the premise that Ishar Singh did not execute the will dated 15.04.2001 as it was forged and fabricated document, therefore, mutation of the same could not have been entered.

The contents of the Will revealed that the appellant-plaintiff had already been given land measuring 18 marlas vide sale deed dated 03.11.1998 which apparently is incorrect.

The defendant, supported the Will and also propounded the sale deed dated 03.11.1998 whereby the plaintiff who was staying in U.P had given 18 marlas of land.

The trial Court on the basis of the evidence dismissed the suit so which was affirmed in appeal.

Learned counsel appearing on behalf of the appellant submitted that there is legality and perversity in the judgment and the decree of the Courts below, as no cash or compensation in terms of money as per the contents of the Will had been given. The sale deed was on account of some

other consideration but not in lieu of his share. The Will was not executed in terms of Section 63 (c) of the Indian Succession Act.

I am afraid the aforementioned argument is not sustainable. The plaintiff miserably failed to belie the signatures of the testator on the Will, which has been proved through testimony of the attesting witness and scribe. Sale deed ibid reflected the appellant was working in UP and had been given land measuring 18 marlas which has been proved on record. In these circumstances, deviation from law of succession cannot be said to be absurd.

Children cannot express any prejudice where father exercises such option. In the absence of any suspicion on the Will, the Court had no other option but to dismiss the suit.

I do not find any illegality and perversity in the finding rendered by both the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Accordingly, the appeal is dismissed.

Application for condonation of delay is also dismissed.

(AMIT RAWAL)
JUDGE

October 30, 2018.
harsha

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