

RSA-6173-2017 (O&M)

140

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

**RSA-6173-2017 (O&M)
Date of decision : 11.12.2018**

Chodhra Singh

... Appellant

Versus

Bhola Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Tribhawan Singla, Advocate
for the appellant.

AMIT RAWAL, J.

CM-16093-C-2017

For the reasons stated in the application, the delay of 11 days in
refiling the appeal is condoned.

CM stands disposed of.

RSA-6173-2017

The appellant-plaintiff has not been successful in claiming the
declaration of having acquired the ownership to the extent of 1/5th share,
out of the share of Gandhi Singh, from the total land holdings measuring 74
kanals 8 marals, by laying challenge to the registered Will dated
23.05.2006, whereby the aforementioned property had been bequeathed in
favour of the defendants, brothers and sons of Gandhi Singh.

Learned counsel for the appellant-plaintiff submitted that
DW-1 Jagan Singh admitted that one of the defendants, son of Gandhi

RSA-6173-2017 (O&M)

Singh, had paid the charges to the scribe and other two sons, had taken him to the Tehsil, thus, the Will was surrounded by the suspicious circumstances and was liable to be discarded as devolution of the property should have been by way of natural succession.

I have heard learned counsel for the appellant-plaintiff, appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Singla, for, both the attesting witnesses, much less, scribe, have proved the execution of the Will, much less, the fact that testator had himself appended the signatures/thumb-impressions on the Will. Nothing contrary to the testimony has come forward. The payment of charges to the Scribe would not mean participation. Had the beneficiaries taken the testator and participated, there would have been a force and merit in the submissions. The registered document carries presumption of truth until and unless strong and cogent evidence is led. In such circumstances, the Courts below have no occasion, but to dismiss the suit.

In this view of the matter, there cannot be any illegality or perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the regular second appeal is dismissed.

11.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**