

RSA No.6320 of 2017 (O&M)

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

**RSA No.6320 of 2017 (O&M)
Date of decision : 02.11.2018**

Ravinder Singh

.....Appellant

Versus

Harvinder Singh @ Amrik Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Parminder Singh Advocate
for the appellant.

AMIT RAWAL, J(ORAL)

Appellant-plaintiff has not been successful seeking declaration along with the consequential relief of permanent injunction in respect of the suit property, propounding the Will dated 5.3.2002, whereby half of the property had fallen to the share of plaintiff and remaining half to the share of defendants. The defendants in defence propounded the Will dated 1.10.2009, whereby Bhagwant Kaur had bequeathed the entire property in favour of defendants Harvinder @ Amrik and Amarjit Singh sons of Gurdial Singh. The trial Court on the basis of the evidence brought on record, discarded both the Wills by holding that the Will dated 1.10.2009 to be shrouded with suspicious circumstance. Both the parties assailed aforementioned judgment by filing separate appeals. Lower Appellate Court on the basis of the evidence accepted the Will dated 01.10.2009 of the

defendants.

Mr. Parminder Singh, learned counsel appearing on behalf appellant/plaintiff in support of the memorandum of appeal submitted that Bhagwant Kaur had died on 16.12.2010. Will of 01.10.2009 has the submerged thumb impression at three places. Defendants could not explain circumstances as to how the Will could be having a three thumb impressions. Subsequent Will did not specify cancellation of the previous registered Will dated 5.3.2002. The detail of the legal heirs excluding the plaintiff was also wanting. The testator had equally distributed the property. It was on account of execution of second Will defendant claimed exclusive ownership which in ordinary parlance was not acceptable as no strained relations with the testator had been proved on record. There is interpolation in the Will dated 1.10.2009 apparently appeared that blank papers bearing thumb impression have been used. All these factors were looked into by trial Court but overlooked by the lower Appellate Court.

I am afraid the aforesaid arguments is not sustainable for lower Appellate Court did not notice very vital effect that Manohar Lal Lambardar was the witness of both the Wills. The original Will dated 5.3.2002 propounded by plaintiff has not seen the light of the day. On the contrary, other Will dated 1.10.2009 has been proved through the testimony of a scribe Mukesh an Advocate. Manohar Lal had also acknowledged the factum of execution of previous Will. Subsequent Will dated 1.10.2009 contained the recital and the revocation of previous Will. It would be meaningless in case the date was absent. The suspicious circumstances in my view did not persist at all as the common witness in both the Wills was

Manohar Lal, despite that during his extensive cross examination nothing contrary has surfaced.

No ground for interference has been made out.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

02.11.2018
tripti/dkp

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