

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

RSA No.6396 of 2017 (O&M)

Date of decision : 07.09.2018

Balbir Singh @ Balwinder Singh

...Appellant

Versus

Joginder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Arora, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.16583-C of 2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 17 days in filing the present appeal is condoned.

Application is allowed.

Main Case

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff filed a suit on the basis of the Testament (Will) dated 02.02.1981 allegedly executed by Sampuran Singh. However, it is undisputed that no attesting witness was examined. Hence, neither the requirements of Section 68 nor of Section 69 of the Indian Evidence Act were fulfilled. Although, the plaintiff initially took a stand that the attesting

witnesses have died, however, subsequently, he moved an application for summoning them as witnesses. Still further, there was a previous suit filed by the sister in which the plaintiff was also party and the Court held that all the three brothers are owners of the property.

In view thereof, there is no scope for interference.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

07.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No