

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

**RSA No.1086 of 2016 (O&M)
Date of Decision.20.05.2019**

Devinder Kaur ...Appellant
Vs
Charanjit Singh and others ..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.S. Dhindsa, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The present regular second appeal is directed at the instance of Devinder Kaur, defendant No.1 against the partial decretal of the suit of the respondent plaintiff.

The respondent-plaintiff sought declaration and permanent injunction being the adopted son of Balwant Singh and Charan Kaur in respect of the suit properties owned by adopted parents.

Defendants opposed the suit and propounded Wills dated 13.02.2008 executed by Chanan Kaur in favour of defendant No.1 and Will dated 29.01.2008 executed by Balwant Singh in favour of defendant No.2, alleged to have been attested by witnesses.

Both parties led extensive evidence.

The trial Court non-suited the plaintiff for having not impleaded all the legal representatives of adopted parents and not proved to be legally adopted son but also discarded the Wills. The lower Appellate Court reversed the finding on issue No.3 and 7 and held the respondent-plaintiff to be adopted son of Balwant Singh and Chanan Kaur and discarded the Will of Chanan Kaur.

Learned counsel appearing on behalf of the appellant-defendant No.1 submitted that Will of 13.02.2008 executed by Chanan Kaur clearly showed bequeathing of property in favour of defendant No.1 i.e. wife of respondent-plaintiff, as he had been living with some other woman and was not having cordial relation with wife-defendant No.1 and adopted parents. This itself was a valid ground for devastation. Appellant-defendant examined Param Singh son of Inderjit Singh and therefore, there was compliance of Section 71 of the Indian Evidence Act, who identified signature of his mother Jatinderjit Kaur and father Inderjit Singh.

I am afraid aforementioned argument would not be sustainable, for, with regard to both the attesting witnesses, medical record of only one of the witnesses was brought on record and not with regard to another. In such circumstances, provisions of Section 71 could not have been complied with and rightly so, the Will has been discarded by the lower Appellate Court.

In view of such circumstances, I do not find any illegality and perversity in the judgment and decree of the lower Appellate Court, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 20, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No