

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.3324 of 2016 (O&M)
Date of decision:17.01.2019

Ram Phal and another

... Appellants

Vs.

Pawan Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ramender Chauhan, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The present regular second appeal is directed against the concurrent findings of facts and law, whereby, appellant-plaintiffs have not been successful in claiming declaration of ownership in respect of suit land *vis-a-vis* estate of Rambai.

It was alleged that property at the hands of Rambai was ancestral and she could not have bequeathed the property in favour of defendant no.1 by way of Will dated 17.04.2008 as she was not in good senses and indisposed which fact had been proved through the testimony of PW1-Dr. Shivkant Sharma, who brought on record indoor file of Kant Hospital, Ex.P1. Even otherwise, if the Will was held to be valid, the property was ancestral, legal necessity has not been pleaded.

I am afraid the aforementioned arguments are not sustainable, for, no evidence with regard to nature and character of the property has been

proved. DW1-Rati Ram, lambardar, attesting witness of the Will had stated that she was coherent and aware of the surroundings. The Will was executed in the office of Tehsildar which was signed by him. PW1- Dr. Shiv Kant Sharma in the testimony stated that Rambai was suffering from high BP. Such disease would not disable the testator to execute the Will. All these factors weighed in the mind of the Courts below. Thus, arguments of Mr. Chauhan, do not enable this Court to form a different opinion than the one arrived at by the Courts below.

No ground for interference is made out.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 17, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No