

RSA-4583-2016 (O&M)

103

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

RSA-4583-2016 (O&M)

Date of decision : 01.03.2019

Surjit Kaur

... Appellant

Versus

Kamaldeep Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Tarunveer Vashist, Advocate
for the appellant.

Mr. Gurbir Singh Sidhu, Advocate
for the respondent-caveator.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff has not been successful in claiming exclusive ownership by way of declaration of the estate of Guravtar Singh, son of the appellant-plaintiff, who allegedly died on 07.06.2010, on the basis of the unregistered Will dated 05.05.2010.

The defendant opposed the suit and stated that the mutation of inheritance was entered in favour of defendant and plaintiff, to the extent of half share.

The plaintiff in support of the pleadings examined Gurdev Singh, Namberdar as PW1, Harinderpal Singh, office kanungo as PW2, Gurjant Singh, attesting witness of the Will as PW3, Mohan Lal, scribe as PW4 and herself as PW5 and brought on record numerous documents.

Mr. Tarunveer Vashist, learned counsel appearing on behalf of the appellant-plaintiff submitted that the defendant did not step into witness box nor cross-examined witnesses. The requirement of law as per Section

RSA-4583-2016 (O&M)

68 of the Indian Evidence Act and Section 63(c) of the Indian Succession Act, for proving the Will, has been complied with. In such circumstances, the Courts below ought not to have dismissed the suit. No doubt, the appellant-plaintiff has now performed the second marriage, but no such evidence being strangers, has been led, thus, urges this Court for setting aside the findings, under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Vashist, for, the first page of the Will did not bear the signatures of the testator or of the attesting witnesses. One of the attesting witness did not acknowledge that he had appended the signatures or signed on the direction/dictation of the testator, which is one of the requirements as per Section 63(c) of the Indian Succession Act. Mutation proceedings conferring the ownership to the extent of half share, had also attained finality.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

01.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**