

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

**RSA No.3770 of 2015 (O&M)
Date of Decision.04.02.2019**

Parminder Kaur
Misra Singh and others

Vs

...Appellant
...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration of owner in possession of 4/15 share in the land in dispute with joint possession and permanent prohibitory injunction restraining defendants from creating third party rights on the premise that Bishan Singh, grandfather had died intestate and did not execute the registered Will dated 03.10.1968. Bishan Singh had four sons namely Saroop Singh, Anoop Singh, Puran @ Sampuran and Dalip Singh @ Trigna and one daughter Kaki. Dalip Singh @ Trigna died issueless whereas Anoop Singh left the home. The beneficiaries of the Will aforementioned were Saroop Singh and children of Anoop Singh. It was further alleged that her father Puran Singh @ Sampuran Singh was not given any share in the aforementioned property.

The defendants opposed the suit and raised objection qua limitation. It was alleged that mutation No.247 was sanctioned on 27.02.1969, as Bishan Singh died on 08.10.1968. Plaintiff was stated to be married.

Mr. Harsh Aggarwal, learned counsel appearing on

behalf of the appellant submitted that no doubt the appellant-plaintiff had challenged the Will but the onus is on the propounder as at his behest the Will was registered. No witness of the Will or scribe has been examined. In such circumstances, Bishan Singh deemed to have died intestate and by way of natural devolution, her father would have also acquired a share. Both the Courts below ignored the aforementioned fact and erroneously dismissed the suit.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Aggarwal, for, father of the plaintiff, Puran Singh after the mutation lived upto February, 2002 when he ultimately left heavenly abode. During all this period, no challenge was laid. Plaintiff was married in 1973. Since she was major at that time, could not raise the cause of action in 2005 by invoking provisions of Article 59 of the Limitation Act, particularly, when during all this period her father was alive.

In such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, 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

February 04, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No