

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

**RSA No.6607 of 2016 (O&M)
Date of Decision.10.05.2019**

Kanta Devi

...Appellant

Vs

Ram Bhaj (now deceased) through LRs

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Bansal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration of ownership with regard to land measuring 16 marlas. It was alleged that her husband Nafe Singh was owner of land measuring 32 marlas, who unfortunately expired on 24.10.1999 and had allegedly bequeathed the Will dated 23.10.1999. The Will aforementioned was not in her knowledge and owing to the natural succession 16 marlas of land was transferred in favour of plaintiff and another 16 marals in the name of mother-in-law Chhoti Devi. Chhoti Devi during her life time allegedly executed registered Will dated 8.5.2000 in favour of defendant No.1 Ram Bhaj i.e. brother-in-law of the plaintiff.

The defendant propounded the Will dated 8.5.2000 stating that it was a full ownership of the mother and she could deal with the same in any manner but plaintiff had no right in the absence of any child. The Will propounded by the plaintiff was stated to be forged and fabricated as it did not see light of the day during mutation proceedings and only in 2009 suit was filed.

Mr. Bansal, learned counsel appearing on behalf of the appellant submitted that even if the Will was discarded, plaintiff ought not to have been non-suited as claimed right under Section 6 of the Hindu Succession Act. The defendant has not been able to prove the Will dated 08.05.2000 as the attesting witness of the Will had not been examined.

I am afraid aforementioned argument is not sustainable, for, the plaintiff has already been taken care on the demise of her husband by providing 16 marlas, as at that time Will was not propounded. The Will being unregistered appears to have been manipulated. Since the Will dated 8.5.2000 propounded by the defendants has not been proved on record, as per law of succession under Section 15 of the Hindu Succession Act, the son have a preferential right than the daughter-in-law. This is what has been held by the Courts below.

In view of such circumstances, the concurrent finding of fact and law cannot be said to be suffering from illegality and perversity, 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 10, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No