

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

**RSA No.1401 of 2017 (O&M)  
Date of Decision:06.03.2019**

Rakesh Kumar Duggal

...Appellant(s)

**Versus**

Smt.Kiran Duggal and others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.Rakesh K. Kaundal, Advocate for the appellant.

**ANIL KSHETARPAL, J.**

The defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below, decreeing the suit for separate possession of the suit property by way of partition.

Undisputedly, the property was owned by Late Smt.Sudha Rani Duggal, who was having two sons and two daughters, who are plaintiffs No.4 and 5 herein. The plaintiffs claim property on the basis of natural succession being Class I heirs. One son of Late Smt.Sudha Rani Duggal namely Sh.Rajesh Duggal had died of course after his death and plaintiffs No.1 to 3 are legal heirs of Late Shri Rajesh Duggal.

The defendant, who is another son of Late Smt.Sudha Rani Duggal, claims that Late Shri Rajsh Duggal had taken his share in a family settlement worth Rs.20,00,000/- in Reliance Communication, Reliance Capital, Reliance Energy and Larsen and Toubro. It is further claimed that Smt.Sudha Rani Duggal disinherited plaintiffs No.4 and 5.

The defendant in order to prove his plea produced on file a writing which is part of a note book allegedly executed by Late Smt.Sudha

Rani Duggal, mentioning that she and her sons are owners of the property. The legal heirs of her son namely Shri Rajesh Duggal are plaintiffs No.1 to 3.

Still further, both the courts below have rightly held that Ex.D7 is neither a gift-deed nor a family settlement nor a testament. The writing does not fulfill the requirements of Section 63(c) of the Indian Succession Act, 1925, to qualify to be an unprivileged testament.

Learned counsel for the appellants although made a sincere attempt, however, could not point out any substantive misreading or non reading of evidence. The property owned by Late Smt.Sudha Rani Duggal in absence of any testament stands inherited by Class-I heirs. Hence, both the courts below have rightly passed a preliminary decree.

In view of the above, there is no ground to interfere. Hence, regular second appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

**06.03.2019**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No