

RSA Nos.2022 & 2067 of 2017 (O&M)

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

Date of decision : 21.01.2019

1.

RSA No.2022 of 2017 (O&M)

Pawan Kumar

... Appellant

Versus

Ram Pyari and others

... Respondents

2.

RSA No.2067 of 2017 (O&M)

Pawan Kumar

... Appellant

Versus

Ram Pyari and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amardeep Hooda, Advocate
for the appellant.

Mr. Sunil Chadha, Senior Advocate with
Mr. Chetan Bansal, Advocate
for the caveator/respondent No.2.

AMIT RAWAL, J. (ORAL)

This order of mine shall disposed of two regular second appeals, aforementioned, at the instance of the defendants, who have not been successful in defending the suit filed by the plaintiffs claiming right in the estate of Sultan Singh by birth challenging the registered Will and gift deed dated 12.06.2009, registered on 19.06.2009.

It was asserted that Sultan Singh, their father, died on

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01.01.2010 and by virtue of amendment in Section 6 of the Hindu Succession Act, they being daughter had a right by birth. The property was inherited by Sultan Singh from his great grandfather and therefore, it was ancestral at his hands. The gift deed and Will could not have been executed except for legal necessity.

The appellants-defendants opposed the suit and stated that both the Will and gift deed were registered documents and had been attested by the witnesses. The registration carried a presumption of truth. There were no suspicious circumstances. The plaintiffs miserably failed to prove the nature and character of the property as ancestral and therefore, by treating the property as self-acquired, the Will and gift deed could not have been challenged being registered documents.

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. Hooda, for, the plaintiffs, in support of the suit, have been able to establish the nature and character of the property as ancestral by bringing on record mutation No.1777 and 1819 (Ex.P1 and Ex.P2), jamabandi for the year 1956-57 (Ex.P-3) and other documents. The defendants could not controvert the nature and character of the property as ancestral, even if, had been able to prove the Will and original gift deed to be genuine documents, it is a settled law that ancestral property cannot be disposed of except for legal necessity. The daughters have been conferred pre-existing rights in the coparcenary property as per amendment in Section 6 of the Hindu Succession Act, in the month of September 2005, therefore, the plea of disentitlement could not have been pressed. All these factors reveal that the judgments and decrees do not suffer from any illegality and perversity,

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much less, no substantial question of law arises for determination.
Accordingly, both the second appeals are dismissed.

21.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓
Whether speaking/reasoned **Yes/ No**
✓
Whether Reportable **Yes/ No**