

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

**RSA No.2169 of 2017 (O&M)
Date of Decision.05.04.2019**

Piara Singh

...Appellant

Vs

Nachhattar Singh and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Abhimanyu Kalsy, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.5265-C of 2017

For the reasons stated in the application, delay of 70 days
in refilling of the appeal is condoned.

Application is allowed.

RSA No.2169 of 2017

The present regular second appeal is directed against the
concurrent finding of fact whereby suit of the appellant claiming
declaration qua estate of Banti by way of natural succession in their
name as well defendant No.1 to 6 has been dismissed by the trial
Court and affirmed in appeal.

The plaintiff by assailing the registered Will dated
7.11.2001 alleged that Banti did not execute the Will and defendants
being the children had right to succeed whereas the beneficiaries are
defendants No.7 & 8, sons of defendant No.4, defendants No.10 to 12
sons of defendant No.1 and defendant No.9 other sibling.

Defendants opposed the suit and alleged that the Will was valid and genuine. The Will was executed by her volition.

Both the parties led extensive evidence. Defendants examined attesting witness Malkiat Singh and Parmod Kumar scribe amongst other witnesses.

Learned counsel appearing on behalf of the appellant submitted that Malkiat Singh DW4 in cross-examination admitted that there were khasra number but in fact the Will did not have khasra numbers. There was spacing in the register of the deed writer. Provisions of Section 63 (c) of the Indian Succession Act have not been complied with. No reasons have been explained regarding taking away share of the plaintiff and defendants No.1 to 6.

I am afraid aforementioned argument is not sustainable as perusal of record of Courts below and statement of DW4 revealed that there is compliance of Section 63(c) of the Indian Succession Act and as he was firm and candid to state that he along with attesting witness signed the Will in the presence of testator and on his directions. The reference of khasra number is not essential requirement of law. Even provisions of Section 68 of the Indian Evidence Act have been complied with. Deed writer's register has also been proved on record. Little spacing here and there would not make any difference as it is a registered document, which carries presumption of truth.

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

April 05, 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No