

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

**RSA No.3366 of 2017 (O&M)
Date of Decision.07.02.2019**

Manpreet Kaur
Vs
Nachhatter Singh

...Appellant
...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.C. Arora, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration and permanent injunction regarding her 1/4th share qua estate of her father Jawala Singh in respect of land measuring 19 kanals 16 marlas on the premise that he had died intestate but the defendant erroneously propounded registered Will dated 2.6.1992.

It was alleged that there were two more sisters Nasib Kaur and Guribinder Kaur, who had been taken care outside the Court and there was no circumstances for Jawala Singh to deviate from the line of natural succession in not protecting the interest of plaintiff. Surjit Kaur, beneficiary of the Will transferred the suit property in favour of defendant on 23.08.2011 and mutation was sanctioned on 26.09.2011 whereas the suit was filed on 11.04.2012.

Defendant supported the Will to be act of volition and free will of Jawala Singh attested by the witnesses.

Mr. Arora, learned counsel appearing on behalf of the appellant-plaintiff submitted that Will is of the year 1992 and Jawala Singh died on 24.04.2003. Plaintiff was not aware and therefore, suit was filed in 2012. The transfer is most unconscious and unbelievable

as mutation was sanctioned one month after he died. Once two sisters have already been taken care outside the Court, plaintiff could not have been ousted in such manner and mode, as she remain depressed, owing to the fact that her husband and son have already left her, thus, urges this Court setting aside judgments and decrees under challenge.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit, as family transfer is permissible. Surjit Kaur, mother of plaintiff, acquired full ownership by virtue of Will and she became absolute owner as per Section 14(1) of the Hindu Succession Act. Her act of transfer, in such circumstances, cannot be said to be unconscious. As regards challenge to the Will, Jawala Singh was in existence for almost eleven years after execution of the Will. No explanation has come forward for not challenging the same for all this period.

The appeal is also accompanied by application seeking condonation of delay of 109 days. The explanation is bereft of reasonable cause and bona fide.

In view of such circumstances, arguments of Mr. Arora have not been able to bring the case within the realm of 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 both on the ground of delay as well as merit.

(AMIT RAWAL)
JUDGE

February 07, 2019

Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No