

RSA-3579-2017 (O&M)

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

**RSA-3579-2017 (O&M)
Date of decision : 26.03.2019**

Virsa Singh (deceased) through LRs

... Appellant

Versus

Amrik Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Nand Lal Sammi, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellants-plaintiffs have not been successful in claiming relief of co-sharer regarding the estate of Surian Singh, on the basis of natural succession.

The aforementioned relief was sought on the premise that Surian Singh died intestate, therefore, all the parties to the *lis* being natural heirs, are liable to be succeeded.

The defendants opposed the suit, by propounding the registered Will dated 25.01.1994, in favour of defendant No.4-Kulwinder Singh, to the extent of half share and defendant Nos.5 and 6, Jarnail Singh and Jagdev Singh, to the extent of other half share. Mutation was already effected. It was alleged that the earlier suit titled as **“Smt. Parsini Versus Hansa Singh and others”** for possession, was decided, wherein the plaintiff in the present suit was arrayed as defendant and admitted the Will, though the suit was

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ultimately dismissed, vide judgment and decree dated 31.07.1970.

Mr. Nand Lal Sammi, learned counsel for the appellants-plaintiffs submitted that the admission in the previous suit cannot be a ground for non-suiting the plaintiffs. The defendants failed to eradicate the suspicious circumstances, surrounding the Will, therefore, the estate of Surian Singh, was liable to be devolved by way of natural succession.

I am afraid the aforementioned argument is not sustainable, for, the Will, as noticed above, has been proved. Virsa Singh, the plaintiff, was arrayed as defendant in the previous suit and admitted the execution of the Will. The admission in a judicial proceeding is admissible, as per the provisions of Section 33 of the Indian Evidence.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Sammi, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the second appeal is dismissed.

26.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**