

RSA-3968-2017 (O&M)

130

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

**RSA-3968-2017 (O&M)
Date of decision : 10.01.2019**

Amrik Singh

... Appellant

Versus

Gursher Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Dhawan, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The present regular second appeal is directed against the concurrent findings of fact ,whereby the plaintiff has not been successful in claiming ownership to the extent of 1/4th share in the estate of Iqbal Kaur by challenging the Will dated 18.01.1995 executed by Iqbal Kaur. According to the averments in the plaint, Iqbal Kaur had died intestate and therefore, all the siblings had the share by way of natural succession. Even the expenses were incurred by him for raising construction. Since she was living in USA, the defendants had some influencing affect, resulting into bequeathing of the entire property in their favour.

The defendants opposed the suit and propounded the Will, aforementioned. The Will being registered, executed out of her own Will in a conscious manner and after understanding the contents.

Both the Courts below have negated the plea of the plaintiff.

RSA-3968-2017 (O&M)

Mr. Amit Dhawan, learned counsel appearing on behalf of the appellant-plaintiff submitted that the Will was registered after demise, therefore, could not have been looked into. The factum of the plaintiff being son of Iqbal Kaur had not been denied. The property was not in her exclusive ownership, but ancestral and therefore, she could not have bequeathed except for legal necessity. Even certain consideration was also contributed by the plaintiff. All these facts have not been taken into consideration by the Courts below, thus, there is grave illegality and perversity.

I am afraid the aforementioned argument are not sustainable as both the witnesses of the Will proved the execution of the Will, even if relative have been examined. There is a compliance of the provisions of Section 68 of the Indian Evidence Act and 63(c) of the Indian Succession Act. The appellant-plaintiff has not been able to controvert the thumb-impressions/signatures of Iqbal Kaur and the Will is always an act of deviation from the line of succession.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Dhawan 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. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

10.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No