

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

**RSA No.5238 of 2017 (O&M)
Date of Decision.03.04.2019**

Darshan Singh

...Appellant

Vs

Nirmal Singh and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. N.S. Dhandiwal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.4607-C of 2019

For the reasons stated in the application, order dated 28.03.2019 passed by this Court is recalled and the appeal is restored to its original number.

Application is allowed.

RSA No.5238 of 2017

The suit of the respondent No.1-plaintiff for declaration of 7/15 share in the land mentioned in head note of the plaint has been decreed by the trial court and affirmed in appeal.

The plaintiff alleged that he had right in the property on the basis of registered Will dated 12.8.2002 of Nihal Kaur whereby she bequeathed her share in the suit land in favour of him and his brother.

Defendants No.1 to 6 are children of Nihal Kaur. The Will was denied and reliance was laid to the mutation effected by the revenue authorities on the basis of natural succession.

Since both attesting witnesses had died, provisions of

Section 69 of the Indian Evidence Act were invoked and even the scribe was also examined.

Learned counsel appearing on behalf of the appellants submitted that there was no reason for Nihal Kaur from deviating the line of succession by giving property only to grandsons. The Will was surrounded by suspicious circumstances. The compliance of provisions of Section 69 of the Indian Evidence Act would pale into insignificance as witnesses could not depose in compliance of provisions of Section 63-C of the Indian Succession Act.

I am afraid aforementioned argument would not be sustainable, for, relatives of the attesting witnesses, much less, scribe Inderjit Sharma has come on record. He has been consistent in stating that witnesses signed in his presence as well as of the testator, thus, Will, in such circumstances, has been proved. No contrary evidence has been led to bring the case within the ambit of suspicious circumstances.

In view of such circumstances, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, 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 03, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No