

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

R.S.A.No.6076 of 2017 (O&M)

Date of Decision: March 20, 2019

Paramjit Kaur

...Appellant

Versus

Harpreet Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

**Present: Mr. Aman Dhir, Advocate,
for the appellant.**

AMIT RAWAL, J. (Oral)

The present Regular Second Appeal is directed against the concurrent findings of fact, whereby the suit of the appellant-plaintiff claiming declaration to be owner in possession of land measuring 50 bighas 3 biswas and for permanent injunction restraining the defendants from alienating the suit property, has been dismissed by the trial Court and affirmed in appeal.

Plaintiff alleged that her husband Gurmit Singh was owner of the suit property. On his demise, she inherited the suit property being Class-I heir. Defendants wanted to grab the property, propounded the Will dated 02.06.1994 and obtained the mutation on 19.01.2006 as Gurmit Singh died on 25.11.2011.

Defendants opposed the suit and stated that the Will was registered document, wherein plaintiff was disinherited. There was also matrimonial litigation between the plaintiff and her husband. The same was one of the reasons for disinheritance.

Plaintiff, in support of the evidence, examined eight witnesses including the Handwriting Expert and also brought on record various documents. On the other hand, the defendants also examined eight witnesses, including the Handwriting Expert and tendered into evidence documents Ex.D1 to Ex.D11.

Mr. Aman Dhir, learned counsel for the appellant-plaintiff submitted that the courts below have erred in dismissing the suit for the simple reason that Gurmit Singh also used to sign as Malkiat Singh. He executed an affidavit of 1986 Ex.PW8/A. The defendants have wielded influence upon him. The Will is silent with regard to the strange relations. Despite matrimonial dispute, defendants failed to relegate the suspicious circumstance for simple reason that in the matrimonial dispute, he appended his signature as Malkiat Singh. In other words, defendants failed to establish on record that the Will had been actually of Gurmit Singh because he was known as Malkiat Singh and has been signing as Malkiat Singh. Class-I heir has a preferential right upon the property.

I am afraid, the aforementioned argument is not sustainable in the eyes of law. The matrimonial litigation is not in dispute. The bank statement of 2005 established that Gurmit Singh also appended his signature as Malkiat Singh. It is also not in dispute that he was also called as Malkiat Singh. Probably, in the matrimonial dispute, he wanted to keep his identity as Malkiat Singh. That could not help the plaintiff in bringing element of suspicious circumstance for discarding the registered Will which has been proved through the testimony of one of the attesting witnesses Bhag Singh. Affidavit Ex.PW8/A is almost eight years old prior to the execution of the Will. Concurrent findings of fact, in which circumstances, cannot be said to

be suffering from illegality or perversity. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

March 20, 2019
ramesh

(AMIT RAWAL)
JUDGE

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