

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.6423 of 2017 (O&M)
Date of decision:13.02.2019

Kulbhushan Sharma

... Appellant

Vs.

Ranjana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vishal Munjal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant has not been successful in defending the suit at the instance of the respondent-plaintiff whereby she has been declared to be owner of the suit property i.e. estate of Kamla Rani, widow of Raghunath Sahai on the basis of the registered Will dated 10.04.2008.

The respondent-plaintiff sought the declaration wherein by virtue of the Will, *ibid* testator had bequeathed the property and sought the injunction restraining the defendant, his agents, assignees, representatives and servants from interference. Kamla Rani had expired on 07.11.2008. Thereafter, the plaintiff had become the owner in possession of the residential house. The defendant had been residing at Agra in Uttar Pradesh and wanted to grab the property by propounding the forged and fabricated Will dated 12.09.2008 in connivance with the revenue officials. In these circumstances, the suit aforementioned was filed.

The defendant opposed the suit by propounding the Will, aforementioned and stated that Kamla Rani had not executed the Will dated 10.04.2008 in favour of the plaintiff. In fact, he was son of Raghunath Sahai's sister and had been looking after Kamla Rani till her last breath. The plaintiff had procured the signature of Kamla Rani as Kamla Rani used to sign but the registered Will bore her thumb impressions.

The respondent-plaintiff in support of the aforementioned averments examined 08 (eight) witnesses including the attesting witnesses and brought on record the order of the Collector in appeal, mutation, jabamandis as Ex.P1 to Ex.P21 whereas the appellant-defendant examined 03 (three) witnesses, in essence, the defendant did not examine the attesting witnesses of the Will, nor proved the same.

Mr. Vishal Munjal, learned counsel appearing on behalf of the appellant-defendant submitted that judgments and decrees of both the Courts below are not sustainable in the eyes of law as both the Wills were required to be discarded. The witness did not depose in terms of Section 63 (c) of Indian Succession Act as the estate of Kamla Rani should have devolved as per the provisions of Section 15 of Hindu Succession Act.

I am afraid the aforementioned argument is not sustainable, for, un-controverted and un-clinched evidence has not been shattered. All the witnesses have been coherent and consistent. The provisions of Section 68 of Indian Evidence Act and Section 63 (c) of Indian Succession Act have been complied with as they have deposed that testator had appended the signatures in their presence. The findings of fact and law cannot be said to

be suffering from illegality and perversity.

I do not subscribe the arguments of Mr. Vishal Munjal to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 13, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No