

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

RSA No.6493 of 2017 (O&M)

Date of decision:27.3.2019

Gurbaksh Singh and others

... Appellants

Vs.

Nihal Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. J.K.Singla, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs have not been successful before the trial Court and Lower Appellate Court in a suit claiming inheritance to the estate of Jita Singh on the basis of natural succession by challenging the registered Will dated 14.09.2009, Ex.D1.

The plaintiffs alleged that Jita Singh son of Partap Singh died on 13.06.2010 intestate leaving behind plaintiffs and defendants as legal heirs. The suit was filed on 17.12.2010 but before that Nihal Kaur, beneficiary of the Will, executed the sale deed in respect of ¼th share out of 38 kanals in favour of defendant no.4, Manpreet Kaur (daughter in law), i.e. wife of Darshan Singh son of Jita Singh.

The defendants opposed the suit and propounded the registered Will and stated that it was on account of own volition as he was hale and hearty. The execution of the Will was in the presence of two witnesses

namely Hardial Singh and Shashi Kiran.

The plaintiffs in support of the averments examined two witnesses whereas defendant examined herself as DW1, the then sub registrar as DW5 and DW2-Randhir Kumar Goyal, scribe, proved the execution of the Will.

Mr. J.K.Singla, learned counsel appearing on behalf of the appellants submitted that Will was surrounded by the suspicious circumstances as no reasoning have been assigned regarding deviation from the line of natural succession. It has been proved on record that all the sons performed the last rites of Jita Singh by joint contribution. The attesting witness did not depose in terms of provisions of Section 63(c) of Indian Succession Act and in cross-examination admitted that beneficiary Nihal Kaur was present in the office of Sub Registrar. The role of Darshan Singhson of Jita Singh husband of defendant no.4 was also doubted. Both the Courts below particularly the Lower Appellate Court being the last Court of facts had not assigned any reasons and affirmed the view.

I have heard the learned counsel for the appellants, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Singla, for the simple reason that statement of Nihal Kaur during the course of hearing was read out in the open Court, wherein she alongwith other attesting witnesses appended the signatures in the presence of the testator which is compliance of the aforementioned provisions of Indian Succession Act.

It is not a case that at the time of drafting of the Will by scribe who also endorsed the fact that Nihal Kaur was present, though in cross-examination, it revealed that she was called by Darshan Singh.

It cannot be a case of active participation. It is also not a case that the property at the hands of Jita Singh was ancestral being self-acquired property, therefore, could deal with the property in any manner he wanted to.

As an upshot of my findings, arguments of Mr. Singla, have not been able to bring the case within the realm of illegality and perversity 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

March 27, 2019
savita

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