

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

**RSA No.3328 of 2017 (O&M)
Date of Decision.13.05.2019**

Rupinder Kaur

...Appellant

Vs

Lakhbir Kaur and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rahul Rampal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.8080-C of 2017

The application for making good the deficiency of court fee is allowed and the appellant is permitted to make good the deficiency of court fee.

C.M. No.8079-C of 2017

For the reasons stated in the application, delay of 49 days in filing of the appeal is condoned.

Application is allowed.

RSA No.3328 of 2017

The disgruntled appellant-plaintiff, sister, has not been successful in claiming 1/6th share in the estate of her father Bikram Singh, who during his life time alleged to have bequeathed entire property by way of Will dated 5.12.1994. The foundation of the suit was based upon the fact that Bikram Singh was not keeping good health at the time of execution of the Will and deemed to have died intestate and therefore, was entitled to share aforementioned.

Defendants opposed the suit and alleged that Bikram Singh had executed registered Will bequeathing the property in favour of the mother.

Both the parties led extensive evidence.

Learned counsel for the appellant submitted that witnesses of both the plaintiff as well as the defendants categorically admitted that Bikram Singh suffered a paralytic attack, resulting into hemorrhage and he was not in sound mind to understand the correctness and intention of changing the line of devolution. It was a strong suspicious circumstance to discard the Will as no witness from the office of Registrar has been examined to prove its registration. This fact has not been even denied by the beneficiary of the Will, much less, the attesting witnesses.

I have heard learned counsel for the appellant and appraised the paper book. During the course of hearing, this Court was also shown copy of the Will registered by the Registrar having endorsement and the contents of the Will are in order. Though onus to prove is on propounder but since plaintiff had the knowledge of the same, could have taken the advantage of the same by summoning witnesses to belie the endorsement *ibid*. The attesting witnesses deposed in terms of Section 63(c) of the Indian Succession Act as well as Section 68 of Indian Evidence Act as well as Rakesh Kumar, scribe. Will is an act of change line of devolution. No direct and cogent evidence has been brought on record to establish that plaintiff being married daughter had been looking after the father. In the absence of such evidence, dismissal of the suit was inevitable.

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

May 13, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No