

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

RSA-2084-2018 (O&M)
Date of decision : 17.02.2020

Rakesh Kumar

...Appellant

Versus

Karan Syal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Prabhakar, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant has filed the present Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit for declaration filed by the plaintiff to the effect that he is entitled to benefits of the amount payable under LIC Policies on account of death of Vinod and Kusum Syal.

The plaintiff claims the amount on the basis of two Wills. One allegedly executed by late Sh. Vinod Syal dated 10.07.2006 whereas second allegedly executed by Kusum Syal dated 17.08.2006. Vinod Syal and Kusum Syal were husband and wife and they have left behind defendant Nos.1 and 2 as Class-1 heirs being children.

Both the Courts, on appreciation of evidence, have found that the execution of the Will in accordance with Section 63 of the Indian Succession Act, 1925, has not been proved. The plaintiff has examined one

alleged attesting witness namely Ravinder Verma as PW3 who did not support the case of the plaintiff. The plaintiff got him declared hostile. The second attesting witness was never examined.

Learned counsel for the appellant has submitted that the application for summoning the second attesting witness was filed. The aforesaid second attesting witness did not appear in evidence, therefore, the Court issued bailable warrants. However, thereafter, the evidence of the plaintiff was closed.

This Court has considered the submissions. However, finds no substance therein.

The suit was filed on 19.01.2009 whereas it came to be decided on 16.11.2016. Thus, the suit remained pending for more than 7 ½ years. Still further, it has been noticed that the appellant avails 15 opportunities to conclude his evidence but failed, forcing the Court to close the evidence by order. Still further, now at this stage, it would not be appropriate to reopen the entire issue.

Keeping in view the aforesaid facts, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

17.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No