

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

RSA No. 4285 of 2017(O&M)

Date of decision: 6.3.2020

Mohinder Singh

.....Appellant

VERSUS

Sansar Singh through LR's and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Babita, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Mohinder Singh, son of Sardara Singh, a relative of Bikkar Singh (since deceased), erstwhile owner of the land in dispute situated in village Chak Ramu, Tehsil and District Nawanshahr has claimed himself to be owner and in possession of land measuring 22 kanal 6 marlas as mentioned in para 1 of judgment of trial Court on the basis of registered Will dated 04.05.1972 purported to be executed by Bikkar Singh.

Indisputably, none of the attesting witnesses of the Will has been examined in the present lis. However, the appellant sought to rely upon statements of scribe and attesting witnesses examined in the previous litigation as PW-1 to PW-3, by invoking the provisions of Section 33 of the Indian Evidence Act, 1872.

The trial Court, on detailed consideration of statements recorded in the previous litigation marked as exhibits in the present case, has refused to rely upon their testimony for the reasons assigned in paras 20 to 22 of the judgment. It has been established on record that Bikkar

Singh was blind by birth. The witnesses either did not know that he was blind or denied the said fact, for the reasons best known to them, may be, to support cause of the appellant/plaintiff with regard to correctness and validity of the testament Ex.P12. The Courts have recorded consistent findings with regard to evidential value of statements of the witnesses examined in the previous litigation, based upon evidence.

Counsel for the appellant has failed to make out a case that factual findings recorded by the Courts are the result of misreading of evidence or ignoring any evidence which has material bearing on decision of the case. In this view of the matter, I do not find an error much less perversity in the judgments impugned.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

MARCH 6, 2020

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no