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

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RSA No.4463 of 2018 (O&M)
Date of decision : 23.01.2020.

Kulwinder Singh and others

... Appellants

Versus

Ravinder Kaur

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Sandeep Arora, Advocate for the appellants.

Anupinder Singh Grewal, J. (Oral)

The appellants have challenged the judgments and decree of the Courts below whereby the suit preferred by the respondent-plaintiff has been decreed to the extent that she is entitled to 1/4th share of 16 kanals 9 marlas.

Learned counsel for the appellants contends that the land in question had been duly transferred in the name of the appellants-defendants vide transfer deed dated 10.08.2005 in pursuance to the Will executed by Chanan Singh on 07.08.2000 and the Courts below have doubted the authenticity of the Will Ex.D2 without any cogent evidence.

Heard.

The respondent-plaintiff had filed a suit for declaration and for joint possession as co-sharer to the extent of 1/4th share in land, to the effect that she is the owner to the extent of 1/4th share of the land measuring (i) 64 kanals 6 marlas comprised in khasra No.16/1 (7-16), 17/1 (4-18), 18(8-0), 23 (7-16), 24(7-2), 25(6-19) khasra No.20(8-0) 21/1(3-2), khasra No.803/1(4-11)

3/2(0-4) 4/1(5-12) situated in village Satkoha Had Bast No.471, Tehsil and District Gurdaspur and (ii) land measuring 15 kanals 19 marlas comprised in khasra No.64 killa No.9/2/2(3-9), 10/1/2 (6-8), 10/2 (1-2), 11/1(5-0) situated in village Taragarh, Had Bast No.472, Tehsil and District Gurdaspur. The respondent-plaintiff is the daughter of late Narinder Singh. The appellants are the brothers of Narinder Singh. Their father, namely, Chanan Singh was stated to be the owner of 80 kanals of land. He had expired in the year 2008. The father of the plaintiff-respondent, namely, Narinder Singh had expired in the year 1996. The plaintiff-respondent had claimed 1/4th share being the legal heir of her father, namely, Late Narinder Singh. The Courts below are stated to have decreed the suit against the plaintiff-respondent to the extent of 61 kanals 5 marlas of land which was stated to have been transferred in the names of the appellants by Chanan Singh during his lifetime. The respondent-plaintiff had challenged the findings with regard to 61 kanals 5 marlas in the first Appellate Court and before this Court through regular second appeal and the same are stated to have been dismissed meaning thereby there is finality with regard to the decree to the extent of 61 kanals 5 marlas of land. The suit with regard to 1/4th share of 16 kanals 9 marlas of land had been decreed in favour of plaintiff-respondent. The appellants were claiming ownership of this land on the basis of Will dated 07.08.2000 which was executed by Late Chanan Singh in their favour. The Will had been registered on the same day when it was scribed. One of the attesting witness, namely, Prem Singh, who had appeared as DW-1, had deposed that Chanan Singh was of sound mind when he had scribed the Will and the Deed Writer after scribing the Will, had read over and explained the contents to executant Chanan Singh. However, DW-1 Prem Singh, had

tendered his affidavit Ex.DW-1/A and on the date of his cross-examination, only a copy of the Will was on record. The original Will was not produced nor a certified or attested copy of the Will had been produced on record. The signatures of Prem Singh on Ex.D2 were in English while Prem Singh, in his deposition before the Court as DW-1, had appended his signature on the affidavit and in the Court in Punjabi. It has been held by the Courts below that the signatures of this witness are totally different on the Will and on the Exchange Deed which is Ex.D1 and he could not render any plausible explanation for the difference. Except Prem Singh, no other attesting witness had been examined by the appellants-defendants to prove the Will Ex.D2. Therefore, the Courts below have held that the Will appears to be executed in suspicious circumstances and is not a genuine document.

The plaintiff-respondent is the sole child of Narinder Singh, who had expired in the year 1996. Narinder Singh and his two brothers, who are the appellants herein, were the legal heirs of Chanan Singh. Chanan Singh was owner of 80 kanals of land out of which, 64 kanals 6 marlas had been transferred by him to his two sons, who are the appellants herein. No land was transferred to the respondent-plaintiff. As the child of Narinder Singh, the respondent-plaintiff would be entitled to the land which came to the share of her father. Although the plaintiff-respondent could not prove that the land was joint family property but one could not lose sight of the fact that the Courts below have decreed the suit to the extent of the remaining land which comprises land to the extent of 1/4th share of the plaintiff-respondent in the remaining land which is 16 kanals 9 marlas. The Will on the basis of which, the appellants were claiming the ownership of 16 kanals 9 marlas of land, had

rightly been held to be suspicious.

Consequently, I do not find any illegality in the findings of the Courts below decreeing the suit of the plaintiff-respondent to the extent of 1/4th share in land measuring 16 kanals 9 marlas.

The appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

January 23, 2020
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No