

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

RSA No. 9634 of 2018(O&M)

Date of decision: 31.1.2020

Beant Singh and another

.....Appellants

VERSUS

Balwinder Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Gaurav Sharma, Advocate for the appellants.

REKHA MITTAL, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration and permanent injunction filed by the appellants/plaintiffs to inherit to Ms. Sukhwinder Kaur on the basis of natural succession by assailing registered Will No.339 dated 18.03.2013 was dismissed by the trial Court vide decree and judgment dated 07.02.2017 that came to be affirmed in appeal by the Additional District Judge, Barnala vide decree and judgment dated 21.08.2018.

Counsel for the appellants would argue that the Will has not been proved in accordance with law and the same is shrouded by suspicious circumstances. It is further argued that in view of plea raised in the written statement, deceased was not keeping well as she was under stress because of death of her husband and having no issue, therefore, it can safely be inferred that she was not in a fit state of mind to understand

her good or bad or make a valid disposition. In addition, it is argued that on the Will, alleged signatures of Sukhwinder Kaur are in Punjabi but in the documents produced by bank officials, the same were signed by the deceased in English.

To assail evidential value of testimonies of Iqbal Singh Lambardar DW-1 and Dharminder – DW-2 attesting witnesses of the Will, it is argued that Iqbal Singh belonged to a village other than Lehra Mohabbat where the property was situated or the deceased was residing. Dharminder is the son of brother of deceased and he would be beneficiary of the Will because a witness of the Bank namely Balwinder Singh – DW4 had stated that Dharminder was entered as a nominee of the deceased and described as son of Balwinder Kaur – respondent/defendant.

Before adverting to submissions made by counsel for the appellants, it is pertinent to note that concurrent findings recorded by the Courts cannot be interfered with merely because a different view is possible on re-appreciation of evidence. Equally settled is that findings recorded by the Courts would warrant intervention if they suffer from perversity or raise a question of law.

Reverting to the case at hand, Sukhwinder Kaur was widow of Jagjit Singh, brother of plaintiffs/appellants. There was no child born out of wedlock of Sukhwinder Kaur and Jagjit Singh. After death of Jagjit Singh, deceased was residing at her parental house in village Lehra Mohabbat. Balwinder Kaur– respondent/defendant is unmarried sister of Sukhwinder Kaur who has propounded the registered Will dated 18.03.2013. The Will is attested by Iqbal Singh Lambardar and

Dharminder Singh, nephew of the deceased. Both the attesting witnesses were examined to prove the Will in accordance with the provisions of Section 68 of the Evidence Act. Counsel for the appellants has not pointed out any facts elicited in cross examination of Iqbal Singh and Dharminder Singh to show that their testimonies are not worthy of credence or reliance or the same creates suspicion regarding correctness and genuineness of the Will in dispute. He has also failed to point out any suspicious circumstances shrouding the Will except that the Will is attested by Dharminder Singh who is entered as nominee of the deceased in one of the bank records produced by DW-4 by stating him to be son of Balwinder Kaur. There is nothing on record suggestive of the fact that Dharminder Singh was adopted by Balwinder Kaur or parents of Dharminder Singh has another son. That being so, it is difficult to accept contention of the appellants that either the respondent has failed to prove the Will in accordance with law or the same is liable to be discarded on any valid ground.

So far as plea of the appellant that Sukhwinder Kaur was not keeping well or was not in a fit state of mind to execute the Will, the mere fact that she was under stress because of death of her husband and having no child or was not keeping good health itself is not sufficient to contend that she did not have sound disposing mind or her mental faculties were affected. No such materials have been produced on record about ailment from which the deceased was suffering much less that she was suffering from depression or any psychological problem. In the given circumstances, the appellants cannot derive any advantage to their

contention from averments in the written statement with regard to illness of the deceased.

Counsel has sought to draw some mileage from the fact that on the Will, signatures of Sukhwinder Kaur are in Punjabi but on bank papers, she has signed in English. It is not plea of appellants that Sukhwinder Kaur never signed in Punjabi, therefore, there was no occasion for her to append signatures in Punjabi on the Will in question. In view of the above, I do not find any reason to intervene in concurrent factual findings recorded by the Courts.

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

JANUARY 31, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no