

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

RSA-71-2021(O&M)

Date of decision:22.02.2021

Pritam Singh (since deceased) through his L.R

.....Appellant

Versus

Harvinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.G.S.Brar, Advocate for the appellant

ANIL KSHETARPAL, J.

Defendant no.6 has filed this appeal against the concurrent findings of fact arrived at by the courts below while decreeing the suit for declaration on the basis of a registered Will. Smt. Prem Kaur had executed a registered Will dated 06.08.1987 in favour of her son Harvinder Singh-plaintiff/respondent. The Will was proved by examining the attesting witness Taranjit Singh as PW2. He has stated that Smt. Prem Kaur came to his shop and thereafter, both of them went to the office of the Sub Registrar where Rashpal Singh, Nambardar – the other attesting witness was present.

Learned counsel for the appellant contends that the Will is surrounded by suspicious circumstances as Taranjit Singh is the brother-in-law of Harvinder Singh. He further submits that the Will has not been

proved to have been executed in accordance with Section 63 of the Indian Succession Act, 1956.

This Court has considered the submission. It may be noted here that the appellant has never assailed the correctness of the registered Will on the ground that it is surrounded by suspicious circumstances before the courts below. Hence, the appellant cannot be permitted to take up a new point, which is based on facts, for the first time, in a Regular Second Appeal. In any case, learned counsel for the appellant has submitted that Taranjit Singh is the brother-in-law of Harvinder Singh. In the considered opinion of the Court, this cannot be the sole ground to doubt the correctness of the registered Will, particularly, when the official from the office of Sub Registrar appeared in evidence as PW3 and stated that the Will was duly registered. No doubt, learned trial court has in one sentence observed that the Will is not proved, however, before the First Appellate Court, learned counsel appearing for the appellant did not assert that the Will is not proved. Learned counsel for the appellant has read over the statement of Taranjit Singh. It is apparent from the aforesaid statement that Taranjit Singh has specifically stated that he accompanied the executant - Prem Kaur to the office of Tehsildar and the Will was executed when he and Rachpal Singh were together present in the office of the Sub-Registrar. Still further, learned counsel for the appellant has failed to draw the attention of the Court to any suggestion given to Taranjit Singh that Rachpal Singh, the other attesting witness was not present when the Will was executed.

In view of the aforesaid facts, no ground to interfere with

the concurrent findings of fact is made out.

Hence, dismissed.

22.02.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

(ANIL KSHETARPAL)

JUDGE