

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

RSA-3152-2019 (O&M)

Date of decision: 14.03.2022

Tirlochan Singh

....Appellant

Versus

Palwinder Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vineet Choudhary, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The appellant is a plaintiff. He filed a suit for grant of decree of declaration to the effect that the registered Will dated 13.03.2006 allegedly executed by late Sh.Santa Singh(the plaintiff's father) is illegal, null and void with a consequential relief of permanent injunction restraining the defendants from alienating and selling the suit land.

Late Sh. Santa Singh was owner of the property in two different villages namely Dhanauni and Pilkhani. Late Sh. Santa Singh distributed the property situated in Village Dhanauni amongst his four sons whereas with respect to property situated in Village Pilkhani, he executed a registered Will dated 13.03.2006 distributing the property in favour of his grandchildren while excluding the plaintiff and his child. It was recited in the Will that the plaintiff has been excluded from succession because he does not respect the old man. The registered Will has been proved by examining attesting witness DW1 Dilbagh Singh,

Nambardar of the village. The registration Clerk has also been examined. Both the courts have dismissed the suit while returning a finding of fact that the Will is proved in accordance with the Section 68 of the Indian Evidence Act, 1872.

Heard learned counsel representing the appellant at length and with his able assistance perused the paper book.

Learned counsel representing the appellant contends that Harjinder Singh, one of the beneficiary of the Will has admitted that relationship between the appellant and Late Sh. Santa Singh was not strained. He further submits that no genuine reason for excluding the appellant from succession has come on record.

It is evident that the judgment passed by the Appellate Court that the appellant stopped Late Sh. Santa Singh from laying down pipeline for carrying water into his fields. Ultimately, a settlement was arrived at before the police, which has been proved on file as Ex.PX. Sh.Vineet Chaudhary, learned counsel representing the appellant has read over the Will. It is evident that Late Sh. Santa Singh has stated that he has distributed his land situated in Village Dhanauni amongst his four sons, however, he does not wish to give any share to the appellant or his son in village Pilkhani, as the appellant does not respect him. In the considered view of the Court, the testator has explained the reason for not giving any share to the appellant in the village Pilkhani. It is also evident from reading of Ex.PX that the relationship between the appellant and Late Sh. Santa Singh was not cordial. While hearing the Regular Second Appeal, the power of the High Court to interfere is

limited. In the absence of substantive error in reading or misreading of the material evidence, the High Court, while hearing Regular Second Appeal is not expected to interfere in the judgments of the court below. The learned counsel representing the appellant, although, made sincere attempts, however, failed to draw the attention of the Court to any substantive error, on the part of the courts below.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

14.03.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE