

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3379 of 2019(O&M)
Date of decision:04.07.2022

Kamaljit Kaur
...Appellant

Versus

Jaspal Singh and others
...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kulwinder Singh, Advocate, for
Mr. S.S.Sarwara, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

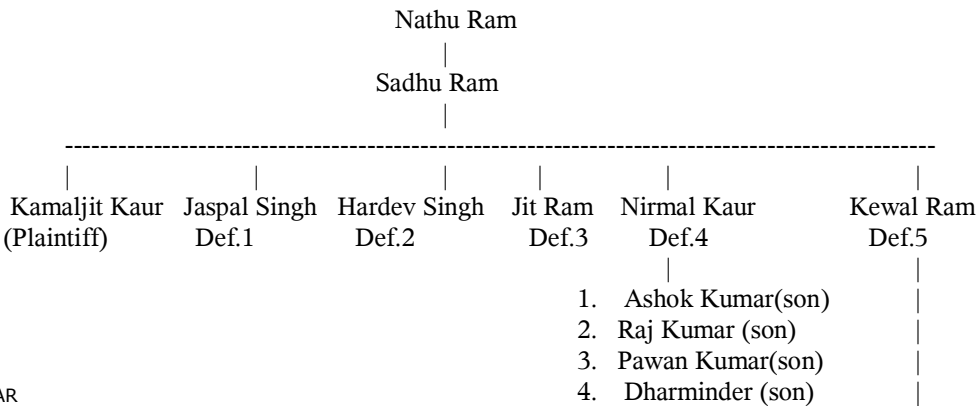
V.M.No.9111-C-2019

For the reasons mentioned in the application, which is supported by an affidavit, the delay of 1205 days in filing the appeal is condoned.

MAIN

While assailing the concurrent findings of fact arrived at by the courts below, the plaintiff has filed the present appeal.

In order to understand the inter-se relationship between the parties, it would be appropriate to draw a pedigree table.



1. Gurwinder Kaur (daughter)
2. Pardeep Kaur (daughter)
3. Kuldeep Kaur (daughter)
4. Rajinder Kaur (daughter)
5. Joga Singh (son)
6. Gamdur Singh (son)

The plaintiff (appellant) is Smt. Kamaljit Kaur. She is the daughter of late Sh. Sadhu Ram. She claims the property on the basis of natural succession which is contested by defendant no.2 and 3, claiming that late Sh. Sadhu Ram executed a registered will bequeathing his entire property in their favour on 05.05.1996. In order to prove the Will, an attesting witness Sh. Gian Singh was examined as DW2, whereas the official of the Sub-Registrar Sh. Parveen Kumar examined as DW3. Sh. Darshan Kumar, the scribe's son was examined as DW4, as the scribe had died. The plaintiff while appearing in evidence admits that there is a photograph of her father on the Will.

The learned counsel representing the appellant contends that the primary evidence has not been brought on file as the original will executed by late Sh. Sadhu Ram was never produced. He submits that in the absence thereof, the defendants have failed to prove their case. In the present case, the certified copy of the registered Will dated 05.05.1996, issued by the office of the Sub-Registrar was produced in evidence. Mr. Parveen Kumar, while appearing as DW3, an official from the office of Sub Registrar brought the relevant note book where another copy of the Will was pasted.

Both the Courts have found that the Will was executed in duplicate. One copy was retained in the office of Sub Registrar which bears the signatures/thumb impressions of the executant as well as the witnesses as also their photographs, whereas, the second copy was given to the executant.

It is evident that while defining the primary evidence under Section 62 of the Evidence Act, 1872, it is provided that where a number of documents are made from one uniform process, as in the case of printing, lithography, or photography, each is a primary evidence of the contents of the rest. In the present case, the requirements of Section 62 have been complied with.

Keeping in view the aforesaid facts, finding no merit, the appeal is dismissed.

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

July 04, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No