

214

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

RSA No.5038 of 2012 (O&M)

Date of decision: 12.09.2022

Jangir Singh

..... Appellant

versus

Inderjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Gagandeep Grewal, Advocate
for the appellant.

Respondent No.2 already proceeded against ex parte
vide order dated 19.12.2013.

Ms. Deepika Sood, Advocate with
Mr. Pritish Goel, Advocate for
Mr. Amar Vivek, Advocate
for respondent No.3.

TRIBHUVAN DAHIYA J.

CM No.14028-C of 2012

Prayer in this application is for condonation of delay of
750 days in filing the appeal.

For the reasons stated in the application, the prayer is
allowed and delay of 750 days in filing the appeal is condoned.

Application stands disposed of.

RSA No.5038 of 2012 (O&M)

This is the plaintiff's second appeal against the judgments
and decree passed by the lower Courts in a suit for declaration

that the appellant-plaintiff (hereinafter referred to 'the plaintiff') is owner in possession of land measuring 49 *Bighas* 12 *Biswas*, and 3/32 share of 0-7 *Biswas*, in the revenue estate of village Jati Majra, as per *Jamabandi* for the year 1992-93, pertaining to the estate of Bant Singh (deceased), on the basis of Will dated 04.05.1996 executed by him in favour of the plaintiff. A decree of permanent injunction was also sought restraining the respondents-defendants (hereinafter referred to 'the defendants') from alienating/mortgaging and transferring the suit property.

2. Both the Courts below have recorded finding of fact to the effect that execution of Will dated 04.05.1996 by Bant Singh in favour of the plaintiff has not been established. It has also been duly established on record, by way of testimony of witnesses, including that of Basant Singh (PW-3), that Bant Singh during his lifetime left his entire property in favour of the respondents-defendants, Devinder Kaur and Gurmeet Singh, as per family settlement. He also appeared in the Court to make a statement and also executed a Will in their favour. After death of Bant Singh, mutation was also sanctioned in the name of the defendants. After death of defendant No.1-Devinder Kaur, her property was mutated in the name of defendant No.2-Gurmeet Singh. Further, a reference can be made to statement of Sh. Manjit Singh Khurmi, Advocate (DW-6), who was Bant Singh's counsel in case titled *Devinder Kaur and others vs. Bant Singh*, that Bant Singh appeared in the Court and got statement recorded on 21.01.1997, was identified by him in Court. Further, a reference can be made to

handwriting expert, Dr. Atul Kumar Singla (DW-12), who deposed that he had examined thumb impression allegedly affixed by Bant Singh on the disputed Will dated 04.05.1996 and compared it with his thumb impression on the statement in Court dated 21.01.1997 and on the written statement dated 17.09.1996. After detail examination, he opined that the thumb impression on the Will has not been affixed by the person, whose standard thumb impressions were there on the statement in Court and the written statement. Plaintiff's own witness PW-3, Jangir Singh has himself admitted that Bant Singh and defendant No.1, Devinder Kaur resided as husband and wife for about 10-12 years and were having cordial relations. He also admitted that defendant No.2, Gurmeet Singh also resided with them for about 6-7 years. On this basis, the Courts below have held that it is highly suspicious as to why Bant Singh will decide to disinherit the defendants by executing a Will in plaintiff's favour.

3. The trial Court itself examined the photographs of thumb impressions and held as under:

28. Otherwise also from the naked eyes of the photographs of the thumb impressions in enlargement view it is apparent that Questioned thumb impressions Q-1 was not affixed by the person who has affixed thumb impressions S-1 to S-6. There is no reason to disbelieve the statement of Dr. Atul Kumar Singla who is a person of repute and is known for his honesty.

4. Once, it has been held that Bant Singh himself appeared in the Court on 21.01.1997 and made a statement showing his intention to transfer the property in favour of defendants No.1 and 2. Coupled with the report of the handwriting expert, disputing the thumb mark of Bant Singh on the Will dated 04.05.1996, it cannot be held that the findings of fact recorded by the Courts below suffer from any error of law.

5. No substantial question of law arises for consideration.

6. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

12.09.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No