

Neutral Citation No. 2023:PHHC:149125

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1399-2023(O&M)

Date of Decision:22.11.2023

Ranjit Singh

.....Appellant/defendant no.1

Vs

Amandeep Kaur and others

....Respondents/plaintiffs

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present :- Mr. Navraj Singh Mahal, Advocate
for the appellant.

SANJAY VASHISTH, J. (Oral)

1. Present regular second appeal has been filed against the concurrent findings of decretal of suit in favour of the plaintiff no.1 (respondent no.1 herein) wife of Harjit Singh and plaintiff no.2 (respondent no.2 herein), Gurseerat Kaur minor daughter of late Harjit Singh.

Plaintiffs filed a suit, seeking a declaration to the effect that plaintiffs are co-owners-in-possession in equal shares *qua* the estate of deceased-Harjit Singh alias Hardeep Singh, out of total land measuring 2 Kanals and 2 Marlas bearing Khewat No.197/204, Khautoni no.501 comprising of Khasra no.763 [2-2] & out of total land measuring 57 Kanals 19 Marlas, bearing Khewat no.194/201-260 Khautoni no.498 comprising of Khasra no.153 [5-16], 156 [6-0], 157 [2-0], 158/1 [4-8], 159 [8-0], 160 [8-0], 343 [8-0], 345 [8-0], 347 [8-0] as mentioned in the *jamabandi* for the year 2013-2014 and in alternative, a decree of joint possession and permanent

injunction was also sought as a consequential relief.

2. In the written statement, defendant no.1 (appellant herein) took a specific stand that claim of the plaintiffs is false because Harjit Singh during his lifetime had executed a will dated 20.05.2016 *qua* his movable and immovable properties in favour of defendant no.1 and his daughter i.e. plaintiff no.2. Thus, on the basis of the will dated 20.05.2016 (unregistered one), defendant no.1 has claimed right in properties of Harjit Singh.

3. After examining the statement of handwriting expert, learned trial Court observed that admittedly, signatures of Harjit Singh are available on the sale deeds dated 04.05.2015 and 25.04.2012 and in fact defendant no.1-Ranjit Singh himself admitted in his cross-examination that the sale deed dated 04.05.2015 (Ex.PW4/A) and sale deed dated 25.04.2012 (EX.PW4/C) bears the signatures of Harjit Singh of his own hand, which was executed by him and his brother-Harjit Singh.

As per the expert witness, disputed signatures 'Q1' on the will dated 20.05.2016 (Ex.DW5/A) are not with the same hand and not even written by the person who had written admitted signatures on the sale deeds dated 04.05.2015 and 25.04.2012.

4. Findings recorded in this regard are in paragraphs no.21, 22 and 23, which are reproduced hereinbelow:-

“21. Defendant no.1 Ranjit Singh has admitted in his cross-examination the fact that he along-with his brother has executed sale deeds Ex.PW4/A to Ex.PW4/D and the same bears signatures of Harjit Singh when shown him in the Court. Meaning thereby, he admitted the genuineness of signatures of Harjit Singh on the sale deeds dated 04.05.2015 and 25.04.2012. Handwriting expert Sukhpreet Kaur PW4 examined by plaintiff in rebuttal have compared admitted signatures of Harjit Singh from the sale deeds dated 04.05.2015 and 25.04.2012 with the disputed signatures on the Will Ex.DW5/A after getting permission from the Court and had

placed on record her opinion report Ex.PW4/1 which clearly reflects that the disputed signatures Q1 on Ex.DW5/A are not with that hand or not written by the person who had written signatures (admitted signatures on the sale deeds dated 04.05.2015 and 25.04.2012) marked as S-1 to S-3. The expert witness was thoroughly cross-examined by counsel for defendant but nothing came out of the same which in any manner even remotely establish the fact that the expert has not given a report based on scientific analysis as done by her in examining the handwriting/signatures of Harjit Singh on disputed Will Ex.DW5/A and admitted signatures on the sale deeds dated 04.05.2015 and 25.04.2012. The report of handwriting expert which has great value in the eyes of law when seen/considered in the light of clear admission of DW2 and DW3 (attesting witnesses) who had categorically admitted that Harjit Singh never signed on the will clearly reflects and establishes on record that the signatures as alleged of Harjit Singh over Ex.DW5/A are result of forgery and throws away the claim of defendant no.1 that the Will dated 20.05.2016 was executed by Harjit Singh in sound disposing mind in favour of defendant no.1 and plaintiff no.2.

22. *The arguments advanced by Id. Counsel for defendant that plaintiff Amandeep Kaur had admitted in her cross-examination that mutation no.1823 dated 08.03.2017 was sanctioned on the basis of Will executed by Harjit Singh has no value in the eyes of law as admittedly she has filed an appeal against the same before the revenue authorities which is adjourned sine-die subject to the decision of Civil Court and it is settled law that Will propounded by any person is to be proved in the Court of law as enshrined in the Indian Evidence Act and he is to remove and explain all the suspicious circumstances upon the document (Will) alleged by him which in the present case defendant no.1 Ranjit Singh miserably failed. His own witnesses i.e. attesting witnesses had denied the fact of Harjit Singh signed the Will dated 20.05.2016 in dispute, his witness i.e. scribe Parsan Singh had deposed that he had scribe the Will of Hari Singh and not of Harjit Singh and the scientific opinion of handwriting expert in her report Ex.PW4/1 clearly establishes the signatures on the alleged Will dated 20.05.2016 is not of Harjit Singh throws away the case of defendant no.1 in all respects.*

23. *In view of my observation in the foregoing para, defendant no.1 Ranjit Singh have miserably failed to prove the due execution of Will dt. 20.05.2016 of his brother Harjit Singh in his favour, accordingly, issue no.1 is decided in favour of plaintiffs and against defendants.”*

5. Consequently, Court held that the plaintiffs being widow and daughter of Harjit Singh, are declared as co-owner-in-joint possession in equal share *qua* the estate of Harjit Singh in the suit land.

6. Making its specific observation in paragraphs no.9, 10 and 11

learned First Appellate Court also dismissed the appeal by maintaining the finding given by the learned trial Court.

7. I have also examined the reasons recorded by both the Courts below and have also heard learned counsel for the appellant/defendant no.1.

8. There is nothing substantial submitted before this Court also to deviate from the findings given by the Courts below. Even no question of law much less substantial question of law arises in the present appeal for consideration of this Court. Accordingly, by maintaining the impugned judgment and decree of the Courts below, the appeal is dismissed.

9. Since the appeal itself is dismissed on merits, no separate order is required to be passed in the other pending application. Same are also disposed of.

22.11.2023

dharamvir

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No