

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(117)

RSA-1640-2023 (O&M)
Date of Decision : 24.05.2023

Rajinder Singh

...Appellant

Versus

Kamaljit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mitul Singh Rana, Advocate for the appellant.

Harsimran Singh Sethi J. (Oral)

CM-5882-C-2023

Application is allowed, as prayed for.

RSA-1640-2023

1. The present regular second appeal has been filed challenging the concurrent findings of the courts below by which the Will purported to have been issued by Onkar Singh in favour of his two sons so as to exclude his wife and daughter from the property owned by Onkar Singh, has been disbelieved and the suit filed by the respondents-plaintiffs has been allowed.

2. Learned counsel for the appellant-defendant conceded a fact that though in the 'Will', the ground taken for extending the property to

both the sons, namely, Santokh Singh and Rajinder Singh, was that the executant was living with both his sons and they were taking care of him and his wife and daughter were not taking care of him, which fact has not been proved. It is further conceded by the learned counsel for the appellant-defendant that Onkar Singh was living with his wife for all his life till his death, whereas, appellant was living separately with his family.

3. That being so, the findings, which have been recorded by the courts below that the reason given in the Will has not been proved on record so as to accept the authenticity of the Will needs not interference by this Court in this appeal. Rather, as per the evidence which has come on record, Onkar Singh was having cordial relation with his wife and daughter, however, no reason has been given to exclude them from the property, which factor has rightly been taken into account by the courts below so as not to accept the said Will.

4. Learned counsel for the appellant has not been able to point out the perversity in the findings recorded by the courts below. Learned counsel for the appellant submits that it could be a case where the father wanted to give all his property to his sons. The said argument means that this Court should re-appreciate the facts to come to another conclusion, which is suitable to the appellant.

5. In the regular second appeal, the perversity in the findings can only be seen and the facts cannot be re-appreciated so as to come to another finding, which is suitable to the appellant.

6. No other argument was raised.
7. Keeping in view the above, no ground is made out for interference by this Court in the present regular second appeal.
8. Dismissed.

CM-5883-C-2023

As the main appeal is dismissed, the present application also stands dismissed.

May 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No