

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

RSA-23-2022(O&M)
Date of Decision : 16.02.2023

Shinder Kaur and others

...Appellants

Versus

Ranjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Daljeet Singh Virk, Advocate for the appellants.

Harsimran Singh Sethi J. (Oral)

In the present regular second appeal, the judgment and decree dated 23.01.2018 of the trial court as well as the order dated 16.01.2020 passed by the lower appellate court are under challenge.

The suit was filed by the appellants-plaintiffs with the allegation that on the basis of a forged Will of Naseeb Kaur, who is the mother-in-law of appellant-plaintiff no. 1 and grandmother of appellant-plaintiff nos. 2 and 3, all her share in the property was given in favour of the surviving sons and no share has been given to the family of the deceased son, Gurjant Singh, which Will has only been forged by the beneficiaries so as to oust the claim of the appellants-plaintiffs from the share of the property of Naseeb Kaur. Keeping in view the evidence, which came on record, the appellants-plaintiffs were not able to prove that the Will No. 80 dated 03.06.2009, which was a registered Will, was outcome of any fraud or the said Will was forged in any manner and the suit was dismissed by the

trial court vide judgment and decree dated 23.01.2018.

Feeling aggrieved against the said decision, the appellants-plaintiffs filed an appeal before the lower appellate court, which also came to be dismissed on 16.01.2020 hence, the present regular second appeal.

Learned counsel for the appellants-plaintiffs argues that one of the relevant fact, which has already come on record through the testimony of attesting witness, namely, Jeet Singh-DW1, has not been interpreted in correct perspective by the courts below while examining the validity of the Will in dispute. Learned counsel for the appellants-plaintiffs argues that DW1 Jeet Singh in his testimony submitted that prior to the subscription of the Will, Naseeb Kaur had told him that she will give all her property in equal shares between her legal heirs hence, once in the said Will, no benefit was given to the family of Gurjant Singh, who was also son of Naseeb Kaur though, had pre-deceased, the Will was within the sphere of suspicion.

Qua the said argument, the statement of said DW1 is to be read in whole. In the testimony, DW1 has clearly stated that he had signed the document in the presence of the others but he did not read the same before signing. The signing of a Will by a witness has been proved to be genuine. There was no corroboration of the other aspect that Naseeb Kaur has ever told the said witness that she will give her property to all the legal heirs in equal shares. In the absence of any corroborating evidence to support the said statement, the courts below have rightly given the findings that the Will, which needs to be proved on the basis of certain parameters, have been proved hence, the argument being raised by the learned counsel for the appellants-plaintiffs cannot be accepted.

Even otherwise, in the regular second appeal, this Court cannot re-appreciate the evidence to record a different finding. No perversity in the findings recorded by the courts below has been pointed out by the learned counsel for the appellants-plaintiffs. In the absence of any such perversity, no interference is called for by this court in the present regular second appeal and the same is accordingly dismissed.

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As the main appeal has been dismissed, the present application also stands dismissed.

February 16, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No