

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

103

2024:PHHC:028447

**RSA-125-1990 (O&M)
Date of decision: 29.02.2024**

TEJA SINGH

..Appellant

Versus

BHAJAN SINGH (DECEASED) THROUGH LRS. & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Viren Sibal, Advocate
for the appellant.

Mr. Sukhjit Singh, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. In this Regular Second Appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the defendant no.1. The plaintiffs namely Sh. Bhajan Singh alongwith his son Sh. Gajinder Singh filed a suit for the grant of decree of declaration that they are owners in possession of the suit property by virtue of the Will executed by late Sh. Tara Singh, Sh. Bhajan Singh's father. It was claimed by the plaintiffs that defendant no.1, the other son of Sh. Teja Singh was given land in another village Kotli. The defendants, while contesting the suit, claimed that Sh. Teja Singh executed a Will dated 30.07.1973, and he never cancelled the same on 11.11.1977. The defendants also denied the execution of the Will dated 11.11.1977. Both the courts on appreciation of the evidence came to the conclusion that the Will dated 30.07.1973, as well as the cancellation deed dated 11.11.1977, have been proved by the plaintiffs. For proving the Will dated 11.11.1977, PW1 Sh. Teja Singh, an attesting witness of the Will was examined. He was also the attesting witness of the cancellation deed dated

11.11.1977. The plaintiffs also examined Sh. Ram Parkash PW2, who had scribed the Will and entered it in his register. It was also signed by Sh. Tara Singh. Both the courts have found that the last Will dated 11.11.1977 is proved in accordance with law and defendant no.1 Sh. Teja Singh, the other son of Sh. Tara Singh has been given land in another village Kotli.

2. The First Appellate Court has also found that the appellant Sh. Teja Singh relied upon the Will dated 11.11.1977, executed by his father Sh. Tara Singh to get the property mutated in his favour and now he cannot be permitted to take a U-turn and allege that the aforesaid Will was never executed by late Sh. Tara Singh.

3. The learned counsel representing the appellant failed to dispute the correctness of the aforesaid findings of fact.

4. In view of the aforesaid facts, the appeal is dismissed accordingly.

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

February 29th, 2024
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(ANIL KSHETARPAL)
JUDGE

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