

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

129

RSA-1501-1990 (O&M)
Date of decision: 06.03.2024

Chanan Singh (deceased) son of Dhanna Singh through his LRs
...Appellant

VERSUS

Pritam Singh and others
...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Vikas Singh, Advocate for the appellant(s).
Mr. Harsharan Singh Bajwa, Advocate for respondent No.1.

VINOD S. BHARDWAJ, J. (Oral)

CM-12630-C-2023

Prayer in the application is for impleadment of the LRs of respondent No.2-Gurmail Kaur, respondent No.3-Bawi and respondent No.4-Bawa Singh, in the main petition.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and LRs of respondent No.2-Gurmail Kaur, respondent No.3-Bawi and respondent No.4-Bawa Singh, are ordered to be taken on record.

Amended Memo of Parties is taken on record.

Main case:

1. The present appeal had been preferred against the judgment dated 12.04.1990 passed by the Additional District Judge, Hoshiarpur,

whereby the finding of the Sub-Judge 1st Class, Dasuya, on issue No.2 pertaining to the execution of a valid Will dated 01.10.1974 by Gopal Singh in favour of plaintiff No.1-Pritam Singh son of Mani Singh, has been reversed.

2. The Sub-Judge 1st Class, Dasuya, had not accepted the Will to have been duly established and returned a finding that the same was surrounded by suspicion but the finding on the said issue was reversed by the Additional District Judge, Hoshiarpur, in his judgment and decree dated 12.04.1990. At the time when the present appeal was filed, the contention of the appellant was noticed specifically to the effect that he would confine his appeal only with respect to the finding arrived at under issue No.2.

3. During the course of resumed hearing today, learned counsel for the appellants contends that the Will set up by the respondent-plaintiff was disbelieved by the Sub-Judge 1st Class, Dasuya. Aggrieved of the aforesaid judgment and decree dated 17.12.1987 passed by the Sub-Judge 1st Class, Dasuya, respondent-plaintiff preferred an appeal wherein even though the said judgment and decree was affirmed, however, finding on issue No.2 was reversed. The Will dated 01.10.1974 was accepted to have been proved. He further contends that he would have no objection in case the issue as regards the validity and genuineness of the Will of Gopal Singh is kept open.

4. Learned counsel for respondent No.1 has no objection to the aforesaid prayer.

5. Accordingly, the present appeal is allowed to the above extent, with the consent of the parties viz. the appellant and respondent No.1. The issue as regards the validity of Will dated 01.10.1974 reversed by the

Additional District Judge, Hoshiarpur, is left open and the finding recorded on the said issue by the Additional District Judge, Hoshiarpur, in RBT Civil No.125 dated 08.01.1988/03.08.1988 decided on 12.04.1990, shall not be binding inter se amongst the appellants and respondent No.1.

6. All other civil misc. applications, if any, stands disposed of.

06.03.2024
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

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