

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

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2024:PHHC:030542

**RSA-600-2024 (O&M)
Date of decision: 04.03.2024**

SURINDER SINGH

..Appellant

Versus

PIARA LAL AND OTHERS

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Chahat Goyal, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. The correctness of the concurrent findings of fact arrived at by the Courts below while dismissing plaintiff's suit for grant of decree of declaration that he is joint owner in possession to the extent of 1/6th share is assailed by the plaintiff. Along with an appeal, an application for permission to lead additional evidence has also been filed in order to produce and prove opinion of the handwriting and fingerprint expert and medical record to prove that late Sh. Lal Chand @ Lal Singh was hospitalized when the gift deed and transfer deed were executed by late Sh. Lal Chand @ Lal Singh.

2. Sh. Lal Chand @ Lal Singh was the common ancestor of the parties. He left behind as many as five sons and a son of pre deceased son apart from a daughter. During his lifetime, he executed a transfer deed on 11.01.2018. Subsequently, he executed a registered gift deed on 12.06.2020. The plaintiff claims that the aforesaid property was ancestral and Sh. Lal Chand @ Lal Singh was not competent to execute the documents. The defendants while contesting the suit asserted that the plaintiff is in the habit of filing false cases and the property was the self-acquired property of Sh. Lal Chand @ Lal Singh. Before the trial Court, the plaintiff appeared as

PW-1 and produced the certified copies of the gift deed and transfer deed as Ex.P-1 and Ex.P-2 apart from the jamabandi Ex.P-3.

3. The defendants examined Sh. Gurveer Singh as DW-1 and produced a copy of the previous plaint filed by the plaintiff Ex.D-1, a copy of the statement given by him Ex.D-2 and a copy of order dated 01.09.2020. A copy of the gift deed was also produced.

4. Both the Courts on appreciation of evidence came to conclusion that the plaintiff has failed to make out a case. The Courts have also found that the plaintiff withdrew the previous suit.

5. This Bench has heard the learned counsel representing the appellant at length and with their able assistance perused the paperbook.

6. Through the application filed under order XLI Rule 27 of the Code of Civil Procedure, 1908, the plaintiff wishes to produce and prove opinion of the handwriting and fingerprint expert. He has failed to explain the reason as to why this document was not produced before the trial Court. Furthermore, the opinion of the handwriting and fingerprint expert appointed by the party is not binding upon the Court.

7. The second document sought to be produced in evidence is Sh. Lal Chand's @ Lal Singh's discharge summary from a private hospital. It is evident that Sh. Lal Chand @ Lal Singh was admitted in hospital on 22.05.2020 while complaining acute gastroenteritis. He experienced vomiting and reported having a fever along with loose stools. He was discharged from the hospital on 24.05.2020. Moreover, the transfer deed was executed on 11.01.2018. It was not executed in favour of a stranger. The gift

deed dated 12.06.2020 is also a registered document. The plaintiff’s case is required to stand on its own legs.

- 8. Hence, no ground to interfere is made out.
- 9. Consequently, the application for additional evidence as well as the appeal is dismissed.
- 10. All the pending miscellaneous applications, if any, are also disposed of.

March 04th, 2024
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(ANIL KSHETARPAL)
JUDGE

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