

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:045646

1. RSA-530-2021 (O&M)
Date of decision: 04.04.2024

RAVINDER AND OTHERS ..Appellants

Versus

RAM KUMAR AND OTHERS ..Respondents

2. RSA-1326-2022 (O&M)

RAVINDER AND OTHERS ..Appellants

Versus

RAM KUMAR AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Johan Kumar, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

1. With the consent of the learned counsel representing the appellants, two connected regular second appeals shall stand disposed of by a common order.
2. These two regular second appeals have been filed by the different defendants to assail the correctness of the concurrent findings of fact arrived at by the Courts below while decreeing the plaintiffs suit for the grant of decree of declaration. In substance, the dispute is with regard to the inheritance of property left behind by Smt. Krishna Kumari @ Krishna Devi, who died on 27.02.2015. The plaintiffs claimed the exclusive right to succeed to the property on the basis of Will dated 27.01.2015. Defendant No.1 claims to be a daughter of Smt. Krishna Kumari @ Krishna Devi, whereas, remaining defendants are brothers, nephew and nieces of Smt. Krishna Kumari's husband.

3. In order to prove the execution of the Will, both the attesting witnesses namely PW-3 Sh. Jagdish and PW-4 Sh. Bhawan Singh have come forward to give their testimony. The scribe Sh. Karamjit Singh Bhatti, Advocate, has also stepped into the witness box. Despite lengthy cross-examination of these three witnesses, the defendants counsels have failed to impeach their credibility. Thus, both the Courts below have decreed the suit.

4. The Will is in favour of Sh. Ram kumar (plaintiff), who is a son of testator's brother.

5. The learned counsel representing the appellants contends that both the Courts below have erred in decreeing the suit as the Will was not registered and was surrounded by suspicious circumstances. He submits that the property came to Smt. Krishna Kumari @ Krishna Devi from her husband and natural heirs were husband's brother and nephews.

6. This Court has considered the submissions of the learned counsel representing the appellants.

7. It is well settled that registration of Will is not mandatory. As per Section 68 of the Indian Evidence Act, 1872, the Will is required to be proved by examining at least one attesting witness.

8. In this case, both the attesting witnesses have been examined. Both the Courts below upon appreciation of evidence have found that the defendants have failed to impeach the credibility of testimony of both the attesting witnesses.

9. With regard to the suspicious circumstances, it may noticed that both the Courts below have already examined this aspect in detail and it has

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been found that the Will has been executed by late Smt. Krishna Kumari @ Krishna Devi in favour of her brother’s son, which is not unnatural, particularly when Smt. Krishna Kumari @ Krishna Devi was not having any children of her own.

10. With regard to the last submission, it may be noticed that the Will is executed to deviate from natural succession. In the present case, the Will is not in favour of a stranger. The testator has bequeathed the property in favour of her nephew.

11. Keeping in view the aforesaid discussion, no ground to interfere is made out.

12. Both the appeals are dismissed accordingly.

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

April 04th, 2024
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(ANIL KSHETARPAL)
JUDGE

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