

RSA-5785-2015(O&M)

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IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

RSA-5785-2015(O&M)

Date of decision : 26.02.2016

Zile Ram

... Appellant

Versus

Maan Singh (now deceased) represented by LR's and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Parveen Gupta, Advocate
for the appellant.

REKHA MITTAL. J.(ORAL)

CM-14317-C-2015

Allowed as prayed for.

Deficiency in Court fee has been made good.

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The present appeal has been directed against the concurrent findings recorded by the Courts below whereby the suit filed by the appellant claiming ownership to the suit land on the basis of testamentary succession to the estate of Smt. Shankri Devi (since deceased) has been dismissed and the judgment and decree passed by the trial Court has been affirmed in appeal.

Counsel for the appellant has submitted that Smt.Shankri Devi was the wife of late Sh.Sadhu Ram though she had been staying

away from Sh. Sadhu Ram since 1948 at her parental house. It is further submitted that Will dated 01.02.1999 propounded by the respondents and purported to be executed by Sh. Sadhu Ram is surrounded by suspicious circumstances as there is no reference in the Will in regard to Sadhu Ram having left behind his widow Smt.Shankri Devi. It is further submitted that the courts have committed a grave error rather illegality by holding that in absence of any documentary evidence, the appellant has failed to establish that Smt. Shankri Devi was the widow of Sh. Sadhu Ram.

I have heard counsel for the appellant, perused the records and find no merit in the appeal.

It is an admitted position of the case that the respondents initiated proceedings for obtaining a succession certificate qua the property left behind by Sh.Sadhu Ram on the basis of Will dated 01.02.1999. In the said case, Smt. Shankri Devi was a party and after her death, the present appellant Sh.Zile Ram was brought on record. The claim of the respondents in regard to the Will propounded by them was accepted by the trial Court and the judgment passed in those proceedings has attained finality between the parties. Once the genuineness of the Will has already been adjudicated upon in proceedings for succession certificate and findings therein have attained finality between the parties, it is not open for the appellant to agitate again that the Will dated 01.02.1999 is surrounded by suspicious circumstances. That being so, the appellant cannot claim any right in the suit property being the successor in

interest of Smt. Shankri Devi on the basis of alleged registered Will dated 26.03.1999 as the appellant could claim any right in the suit property only if Smt. Shankri Devi was held entitled to inherit to Sh. Sadhu Ram. In this view of the matter, I do not find any error much less illegality in the findings recorded by the trial Court duly affirmed in appeal.

For the foregoing reasons, finding no merit, the appeal is dismissed in limine.

The application for condonation of delay of 533 days in filing the appeal is only of academic relevance, in the aforesaid circumstances.

(REKHA MITTAL)
JUDGE

February 26, 2016.
Davinder Kumar