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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. SAO-54-2016 (O&M)
Date of decision: 05.05.2025

SHANKARI DEVI (DECEASED) THROUGH LRS. ..Appellant

Versus

GENERAL PUBLIC AND ORS ..Respondents

2. RSA-5785-2015

ZILE RAM ..Appellant

Versus

MAAN SINGH (DECEASED) THROUGH LRS. & ORS
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

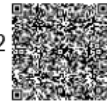
Present: Mr. Arihant Jain, Advocate
Mr. Kanish Jindal, Advocate
for the appellant (in both cases).

Mr. Birender Singh Rana, Sr. Advocate
with Mr. Vipul Goel, Advocate.
for respondent No.2 and 3(iii) (in SAO-54-2016)
for respondents No.1(c) and 2 (in RSA-5785-2015).

ANIL KSHETARPAL, J(Oral)

I. Brief facts of the case:-

1. With the consent of learned counsel for the parties, two appeals i.e. SAO-54-2016 and RSA-5785-2015, shall stand disposed of by this common order.
2. The inheritance of property left behind by late Sh. Sadhu Ram is the subject matter of contention between the parties.



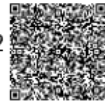
3. The respondents namely Sh. Pammi Singh and Sh. Mann Singh are two sons of Sh. Budh Ram, who was brother of Sh. Sadhu Ram. Thus, Sh. Pammi Singh and Sh. Mann Singh are nephews of Sh. Sadhu Ram.

4. On the other hand, Sh. Zile Ram is son of brother of Smt. Shankari Devi, who claims to be the widow of Sh. Sadhu Ram.

5. Originally, Sh. Sadhu Ram bequeathed his property on 21.01.1995, in favour of his brother Sh. Budh Ram, however, Sh. Budh Ram died. Sh. Sadhu Ram executed another Will dated 04.07.1997 bequeathing his property in favour of Sh. Pammi Singh and Sh. Mann Singh. Sh. Zile Ram filed a civil suit for claiming inheritance of property of Sh. Sadhu Ram on the ground that as per natural succession; on the death of Sh. Sadhu Ram, Smt. Shankari Devi inherited the property, who in turn bequeathed the property in his favour on 26.03.1999.

6. Sh. Pammi Singh and Sh. Mann Singh proved the execution of the Will dated 04.07.1997, by examining two attesting witnesses i.e. DW-3 Sh. Niranjana Singh and DW-1 Sh. Gopal Singh. The scribe DW-2 Sh. Sanjay Kumar was also examined. In regular second appeal, both the Courts concurrently found that Sh. Sadhu Ram's Will dated 04.07.1997, has been successfully proved by Sh. Pammi Singh and Sh. Mann Singh namely the defendants in the suit.

7. Sh. Pammi Singh and Sh. Mann Singh also filed an application under Section 387 of the Indian Succession Act, 1925 (in short '1925 Act') for grant of succession certificate, which was initially granted, however, Smt. Shankari Devi filed the objections. That is how the second appeal against order has been filed.



II. Arguments addressed:-

8. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the requisitioned record.

9. Learned counsel for the appellant has made the following four submissions:-

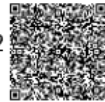
i. In the alleged Will dated 04.07.1997, Sh. Sadhu Ram has not disclosed about his wife Smt. Shankari Devi, hence, the Will is surrounded by suspicious circumstances.

ii. The Will dated 04.07.1997 was ignored by the Financial Commissioner in the mutation proceedings.

iii. The validity of the registered Will executed by Smt. Shankari Devi has not been decided.

iv. Both the attesting witnesses of the Will dated 04.07.1997 namely Sh. Niranjana Singh and Sh. Gopal Singh are related to the beneficiaries of the Will.

10. Per contra, learned counsel for respondents submits that First Appellate Court has found that Smt. Shankari Devi is not proved to be the wife/widow of Sh. Sadhu Ram. Admittedly, Smt. Shankari Devi was residing in village Bhairon from 1948, whereas, Sh. Sadhu Ram died in the year 01.02.1999. He further submits that Sh. Multan Singh, the attesting witness of Will dated 26.03.1999 did not complete his deposition as he failed to come forward to face cross-examination.



III. Analysis and Discussion:-

11. This Court has considered the submissions of learned counsel for the parties.

12. It is evident that no document has been produced to prove that Smt. Shankari Devi was wife/widow of Sh. Sadhu Ram. The correctness of findings of fact arrived at by the First Appellate Court is not challenged.

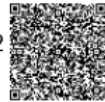
13. The Will dated 04.07.1997 has been proved by examining two attesting witnesses i.e. Sh. Niranjan Singh and Sh. Gopal Singh and scribe Sh. Sanjay Kumar. The credibility of their evidence could not be impeached despite lengthy cross-examination. Moreover, the Will dated 04.07.1997 is scribed on five running pages. Sh. Sadhu Ram has appended his thumb impression on all the five pages.

14. Sh. Sadhu Ram not only revoked earlier Will dated 21.01.1995 but also stated that he is residing with his nephews. Smt. Shankari Devi was residing in village Bhairon as claimed by Sh. Zile Ram from 1948.

15. The observation made by the Financial Commissioner in the mutation proceedings is not binding. In any case, the Financial Commissioner has already stated that the Civil Court judgment shall be binding.

16. With regard to the Will executed by Smt. Shankari Devi, it may be noted that the dispute in the present case is with respect to the property left behind by Sh. Sadhu Ram.

17. With reference to the last submission, it may be noted that the '1925 Act' requires the attestation of Will by two attesting witnesses. The Will dated 04.07.1997 is attested by three witnesses. Moreover,



overwhelming evidence has been produced to prove that Sh. Sadhu Ram being issueless was residing with his nephews namely Sh. Pammi Singh and Sh. Mann Singh.

18. Moreover, the counsel representing Sh. Zile Singh failed to impeach the credibility of both the attesting witnesses of the Will.

19. The proceedings under Section 372 of the '1925 Act' are summary in nature. Once, the validity of the will has been determined by the Civil Court, the proceedings under Section 372 would be deemed to have been rendered infructuous because Sh. Pammi Singh and Sh. Mann Singh sons of Sh. Budh Ram have inherited the property of Sh. Sadhu Ram.

IV. Decision:-

20. Consequently, RSA-5785-2015 is dismissed while upholding the concurrent findings of fact arrived at by the Courts below, whereas, SAO-54-2016 is dismissed as infructuous.

21. There is a delay of 533 days in filing the regular second appeal, which is seriously contested by learned Senior counsel representing the respondents, however, this Court is not required to decide the same as the appeal on merit has already been dismissed.

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

May 05th, 2025

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**(ANIL KSHETARPAL)
JUDGE**

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