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

RSA-756-2020 (O&M)

Date of Decision : 17.11.2025

SHAKUNTLA

.... Appellant

VERSUS

PALE RAM AND ANOTHER

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Kumar Jain, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the plaintiff-appellant challenging the findings returned by the Trial Court vide judgment dated 22.03.2018 and by the First Appellate Court vide judgment and decree dated 25.09.2019.

2. Briefly stated, the facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for declaration and consequential relief of permanent injunction. The case set up by the plaintiff-appellant in the plaint was that the plaintiff-appellant and defendant-respondent No.1 were the legal heirs of late Sh. Dharma @ Dharam Singh and the plaintiff-appellant being Class-I legal heir was entitled to half share of the property left by Dharma as fully described in the plaint. It was further the case set up that the property was ancestral agricultural property and that the plaintiff-appellant had a right in the same by birth. Further challenge was laid to a Will dated 19.05.2003 alleged to have been executed by Dharma in favour of the defendant-

respondents. It was further the case that the suit property being ancestral could not have been bequeathed by Dharma in favour of the defendant-respondents.

3. Written statement was filed by the defendant-respondents wherein it was stated that Dharma had executed a registered Will dated 19.05.2003 bequeathing his entire share in favour of defendant-respondent No.1 in lieu of the services rendered by him. It was further the case that Dharma had only 1/3rd share in the suit property i.e. 79 Kanal 4 Marla and he did not own the entire land. It was still further the case set up that defendant-respondent No.1 had been bearing all the expenses of *Bhath, Chuchak etc.* of the plaintiff-appellant since before Dharma @ Dharam Singh and that even the expenses of the marriage of the plaintiff-appellant's children were borne by defendant-respondent No.1. It was further the case that the property was self-acquired property of Dharma and that the same was inherited by the defendant-respondents by virtue of the Will dated 19.05.2003.

4. Replication was not filed. On the basis of the pleadings of the parties the following issues were framed :

- 1) Whether the plaintiff is entitled to a decree of declaration as prayed for ? OPP
- 2) Whether the plaintiff is entitled to the decree for permanent injunction as prayed for ? OPP
- 3) Whether the suit of the plaintiff is not maintainable in the present form ? OPD
- 4) Whether the plaintiff has no cause of action and *locus standi* to file the present suit ? OPD

5) Whether the suit of the plaintiff is time barred ?

OPD

6) Relief.

Thereafter the following additional issue was also framed vide order dated 23.01.2017 :

1) Whether the plaintiff is entitled to the decree for possession as prayed for ? OPP

5. The Trial Court dismissed the suit vide judgment dated 22.03.2018 upholding the due execution of the Will dated 19.05.2003 and further holding that the suit property was not ancestral property. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 25.09.2019. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant would contend that the suit property was ancestral in the hands of Dharma and he was not competent to execute the alleged Will. It is further the contention of the learned counsel that Dharma was an illiterate person and that taking advantage of his old age, the defendant-respondents got the Will executed.

7. Heard.

8. In the present case the Will dated 19.05.2003 was challenged by the plaintiff-appellant herein on the ground that the property was ancestral in the hands of Dharma. The onus to prove that the property was ancestral in the hands of Dharma was upon the plaintiff-appellant. The plaintiff-appellant

failed to produce any document on the record to even remotely suggest that the property was ancestral in the hands of Dharma. The Will dated 19.05.2003 was duly proved by the defendant-respondents by examining the attesting witness, namely, Nafe Singh as DW6. No evidence was led to the contrary. Learned counsel for the plaintiff-appellant has not been able to show as to how the Will was not validly executed or was shrouded by suspicious circumstances.

9. No question of law, much less any substantial question of law, arises in the present regular second appeal. This Court does not find any ground to interfere with the concurrent findings of fact recorded by both the Courts concerned. In view thereof, the present regular second appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.11.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No