

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

RSA-5996-2014 (O&M)

Date of decision: 29.01.2016

Ashok Kumar Singh

...Appellant(s)

Versus

Mrs. Prabha Singh and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Deepender Singh, Advocate for the appellant(s).

JITENDRA CHAUHAN, J.

The instant regular second appeal has been preferred against the judgment and decree dated 11.04.2013, passed by the learned Civil Judge (Junior Division), Faridabad (for short, 'the trial Court'), whereby, the suit of the plaintiff-appellant has been dismissed; and judgment and decree dated 07.08.2014, passed by the learned Additional District Judge, Faridabad (for short, the first Appellate Court), whereby, the appeal preferred by plaintiff-appellant against the impugned judgment and decree dated 11.04.2013, of the trial Court, has been dismissed.

The plaintiff filed suit for declaration to the effect that the plaintiff is entitled to inherit his share in House No.915, Sector

7C, Faridabad, and the Will dated 24.11.1992 along with subsequent sale deed dated 10.03.2008 in favour of defendants Nos. 2 and 3 be set aside as the same were fraudulently obtained. It was further prayed that defendant Nos.2 and 3 be restrained from alienating the suit property in any manner. The trial Court dismissed the suit filed by the appellant.

The learned first Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record and dismissed the appeal of the plaintiff vide impugned judgment and order dated 07.08.2014.

Hence, this appeal at the behest of the plaintiff.

Learned counsel for the appellant has submitted the Will dated 24.11.1992, executed by the father of the plaintiff, is not proved as there is variation of signatures on the Will in question and the other documents signed by him. The testator had been residing at Faridabad and the property in question was also located at Faridabad, however, the Will in question was executed at Jaunpur (Uttar Pradesh), which is at a distance of about 800 kms.

I have heard learned counsel for the appellant and gone through the case file.

It is to be seen that the property in question is the self-

acquired property of the testator, late Shri K.P. Singh. The appellant has failed to bring any evidence on record that the Will was fake or suffered from any defect. The learned trial Court has specifically noticed that instead of initials, the Will in question bears full signatures of the testator. It is not a case where the Will is in favour of some person alien to the family. The Will has been executed in the name of Smt. Prabha Singh, respondent, the wife of the testator. The testator of the Will has mentioned a strong reason to ignore his son from his inheritance. The contents of the Will spell out that the present plaintiff (the son) had separated from him, and he had been living with his wife and children. Moreover, the house, wherein, the plaintiff had been residing, was built with the financial aid of Mr. K.P. Singh, the testator of the impugned Will. The Will is the result of natural conduct of a man of ordinary prudence as the testator has kept balance between his wife, the defendant, and the son, the plaintiff. Therefore, this is no suspicious circumstance with regard to the Will which has been duly proved.

The arguments raised by the learned counsel pertain to the factual aspect of the matter. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed in limine.

29.01.2016
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(JITENDRA CHAUHAN)
JUDGE