

Punjab Kaur Vs. Mohinder Singh

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Court : Punjab and Haryana

Decided On : Aug-23-1999

Reported in : (2000)125PLR380

Judge : S.S. Sudhalkar, J.

Appeal No. : Regular Second Appeal No. 1904 of 1999

Appellant : Punjab Kaur

Respondent : Mohinder Singh

Advocate for Def. : None

Advocate for Pet/Ap. : J.S. Chahal, Adv.

Disposition : Appeal dismissed

Judgement :

S.S. Sudhalkar, J.

1. By order of the even date passed separately in CM. 3561-C of 1999, delay in re-filing the appeal has been condoned.

2. Appellant Punjab Kaur is a widow of Jangir Singh. Jangir Singh, according to the respondent, had made a Will Ex.D1 vide which he had given only 1/4th share to appellant Punjab Kaur and 3/4th share was given to the respondent. Learned

counsel for the appellant argued that the Will cannot be said to have been proved and that even the circumstances show that Will cannot be accepted. However, both the Courts below have held in favour of the respondent regarding the Will.

3. Learned counsel for the appellant argued that Will cannot be accepted because it was only made one month prior to the death of a testator. He also argued that the earlier Will was a registered Will and, therefore, there was no need to execute an unregistered Will. He further argued that as against the unregistered Will, the registered Will will prevail. Learned counsel for the appellant also argued that the unregistered Will relied upon by the Courts below is not properly proved.

4. It is not necessary that a Will has to be registered. A person may get his Will registered. However, the subsequent Will, which is unregistered, will prevail upon the registered Will if its execution is properly proved and there is an evidence to accept the execution of the Will. The Will being registered or not registered does not make any difference. Moreover, even if the Will is made one month prior to the death of the testator, it does not make any difference.

5. Here, in the present case, the respondent relied upon the unregistered Will in which 3/4th share has been given to him and only 1/4th share has been given to the appellant. Appellant did produce the registered Will, which was in her possession, only when it was called upon by the Court below. On questioning, learned counsel for the appellant stated that in the registered Will also, the appellant is given 1/4th share. However, there is no mention about the remaining property. This goes to show that there was intention of the testator to give 1/4th share to the appellant and it may be because it is left out as to who shall succeed to the remaining 3/4th share, he might have executed the unregistered Will subsequently.

6. Looking to the findings of the Courts below, the evidence in the case and the circumstances proved in the evidence, I find no reason to interfere with the findings of the Court below. As a result, this appeal is without merit and is dismissed.

