



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-5650-2018 (O&M)

Date of Decision.:28.03.2025

Anu Chopra and another

.....Appellants

Vs.

Aarti Lamba and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rajinder Goel, Advocate
for the appellants.

DEEPAK GUPTA, J. (ORAL)

Suit for declaration and permanent injunction regarding property in dispute filed by plaintiff Aarti Lamba (*contesting respondent No.1 herein*) was decreed by the trial Court on 26.02.2016. Aggrieved by the same, two of the defendants namely Anu Chopra and Paras Chopra (*appellants herein*) filed appeal but it was dismissed by the first Appellate Court on 18.04.2018. Against these concurrent findings of the Courts below, defendant Nos.1 and 2 have approached this Court by way of present Regular Second Appeal.

2. In order to avoid any confusion, parties shall be referred as per their status before the trial Court. Trial Court record was also called and same has been perused.

3. Suit property was admittedly owned by Sh. Madan Lal Chopra. His only son Shiv Kumar had expired on 19.07.2003. Defendants Nos.1 to 4 (*appellants & respondents No: 3 & 4 herein*) are the widowed daughter-in-law and grandchildren of Sh. Madan Lal Chopra. Plaintiff Aarti Lamba (*respondent No: 1 herein*) is admittedly the daughter of the sister of Sh. Madan Lal Chopra.



4. Plaintiff claimed $\frac{1}{4}$ th share in the suit property on the basis of registered Will dated 17.05.2005 (Ex.P1) executed by Sh. Madan Lal Chopra. Other $\frac{3}{4}$ share was bequeathed in favour of defendant Nos.1 to 4. Plaintiff also claimed that she had been adopted by Sh. Madan Lal Chopra, as his daughter. Defendant No.5 M/s Volga Restaurant (*respondent No.2 herein*) being a tenant on a part of the suit property, was impleaded as performa defendant. As defendants had refused to admit the claim of the plaintiff on the basis of Will, so plaintiff brought the suit seeking declaration that she was owner of $\frac{1}{4}$ share in the suit property and further prayed to restrain the defendants from alienating the suit property in any manner.

5. Defendant Nos.1 to 4 denied the plaintiff to be adopted daughter of Madan Lal Chopra. They further disputed valid execution of the Will dated 17.05.2005 as propounded by the plaintiff and prayed for dismissal of the suit.

6. After framing necessary issues and taking evidence produced by the parties, trial Court decreed the suit and the first Appellate Court upheld the findings.

7. It is contended by learned counsel for the appellants before this Court that Will was not proved to be validly executed by Sh. Madan Lal Chopra. Plaintiff had failed to prove that she was the adopted daughter of Sh. Madan Lal Chopra and that it was incorrectly stipulated in the Will that plaintiff was adopted daughter of the testator, which creates suspicion regarding the validity of the Will.

8. After hearing learned counsel for the appellant and going through the paper-book along with the trial Court record, this Court does not find merit in any of the aforesaid contentions.

9. Perusal of the Will Ex.P-1 of Shri Madan Lal Chopra, as propounded by the plaintiff would reveal that it is purported to be scribed



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by Sh. Sunder Lal, document writer, and attested by two witnesses namely Parveen Kumar & Satinder Kumar, Advocate. It is a registered document, having been duly registered on the deed of its execution itself i.e. 17.05.2005 before Sub-Registrar, Jagadhari.

10. Plaintiff has examined one of the attesting witnesses Parveen Kumar as PW-2 and scribe Sunder Lal as PW-4, both of whom have proved all the necessary legal requirements to prove the due execution of a valid Will. PW-3 Rameshwar, registration Clerk in the office of Sub-Register Jagadhari proved the due registration of the Will. The credibility of none of these witnesses could be impeached, as has been observed by both the Courts below.

11. Apart from the above, perusal of the Will further reveals that the Will is duly signed by Sh. Madan Lal Chopra in fluent English, who apparently was an educated person. Sh. Madan Lal Chopra had expired on 11.06.2009 i.e. more than 04 years after the execution and registration of the Will in question and never got it cancelled.

12. Not only above, the first Appellate Court has further observed that defendant Anu Chopra during her testimony admitted the photograph affixed on the Will to be that of Madan Lal Chopra. She could not raise any objection about mental health of the deceased at the time of execution of the Will on account of her own admission to the effect that till his death, Sh. Madan Lal Chopra was fully fit.

13. Although the plaintiff - respondent could not produce cogent evidence regarding her adoption by Sh. Madan Lal Chopra but learned first Appellate Court has rightly observed that said plaintiff was admittedly the daughter of real sister of deceased Madan Lal Chopra and thus, closely related to him and even if, it be assumed that she had failed to prove valid adoption by the deceased, though this fact was duly mentioned in the Will,



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still that in itself would not be sufficient to hold the Will to be a forged or fabricated document. The Will in itself conferred rights in the suit property to the plaintiff to the extent of 1/4th share.

14. In the aforesaid facts and circumstances, simply because plaintiff was not able to produce cogent evidence regarding her adoption by Sh. Madan Lal Chopra as daughter, could not be a reason to discard the Will, as has been rightly held by the Courts below.

15. Consequent to above, this Court does not find any illegality or perversity in the concurrent findings of facts as recorded by the Courts below, which are based upon proper appreciation of evidence. As such, the present appeal being devoid of any merit, is hereby dismissed.

All the miscellaneous application(s), if any, stand disposed of.

(DEEPAK GUPTA)
JUDGE

March 28, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No