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

**RSA-108-2022 (O&M)**

**Reserved on : 03.09.2025**

**Date of Decision : 09.09.2025**

Gurmeet Kaur

... Appellant(s)

VERSUS

Daya Kaur & Anr

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Aman Sharma, Advocate for the appellant.

**ALKA SARIN, J.**

**CM-238-C-2022**

1. For the reasons mentioned therein, the application seeking condonation of delay of 100 days in refiling the appeal is allowed and the delay of 100 days in refiling the appeal is condoned.

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2. The present regular second appeal has been preferred by the plaintiff-appellant challenging the concurrent findings returned by the Trial Court vide judgment and decree dated 23.03.2016 and the First Appellate Court vide judgment and decree dated 27.09.2019.

3. Briefly, the facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for permanent injunction pleading that the suit property was ancestral in nature. It was further the pleaded case that the suit property was originally owned by Bhagwan Singh since deceased and was inherited by his son – Ralla Singh. The property of Ralla Singh was inherited

by Mehpal Singh, Mastan Singh, Harbans Singh, Jasmer Singh, Lakhmir Singh, Jaswant Kaur (mother of the plaintiff-appellant), Harpal Kaur etc. The plaintiff-appellant set up a Will dated 25.08.1998 alleged to have been executed by her mother in favour of the plaintiff-appellant. The plaintiff-appellant claimed 1/7<sup>th</sup> share on the basis of the said Will. It was averred that her maternal uncle and aunt had illegally and forcibly occupied the shop of the mother of the plaintiff-appellant and both of them had no legal right to retain the same. It was further the case that the suit property was joint and had not been partitioned. It was further the case set up that the property No.2183 (shop) in the name of Daya Kaur (defendant-respondent No.1) and the property No.2184 A/2, Ward No.10, Badala Road Kharar (shop) in the name of Jasmer Singh (defendant-respondent No.2) had illegally been mutated in their names and they had no legal right to retain the same. It was further the case that the defendant-respondents had misled the mother of the plaintiff-appellant and got her thumb-impression on some blank papers and misused the same. Hence, the present suit.

4. Written statement was filed wherein the stand taken was that Ralla Singh owned sufficient properties including the suit property which was inherited by him from his father – Bhagwan Singh. He executed a Will dated 25.08.1988 wherein he specifically dealt with the shops situated on Landran Road and Badala Road and the other property owned by him. It was the stand taken that the mother of the plaintiff-appellant had died on 08.11.1998 but it was not in the knowledge of the defendant-respondents that she had executed any Will in favour of the plaintiff-appellant. It was denied that the suit property had forcibly been occupied by them. It was the stand taken that they

had inherited the suit property and the loans also were paid by the defendant-respondents as was stated in the Will of Ralla Singh. It was further the stand taken that the property inherited by Jaswant Kaur (mother of the plaintiff-appellant) had already been sold by her vide sale deed dated 01.09.1998. Various other objections regarding maintainability, suit being time-barred, etc. were also raised.

5. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled to declaration as prayed for ? OPP
2. Whether plaintiff is entitled to Permanent Injunction as prayed for ? OPP
3. Whether the suit is not maintainable in the present form ? OPD
4. Relief.

6. Vide judgment and decree dated 23.03.2016 the Trial Court dismissed the suit. 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 27.09.2019. Hence, the present regular second appeal.

7. Learned counsel for the plaintiff-appellant would contend that the Courts have erred in dismissing the suit. It is urged that the plaintiff-appellant had inherited the suit property on the basis of a Will left by her mother and that both the Courts have dismissed the suit without considering the evidence on the record.

8. I have heard the learned counsel for the plaintiff-appellant.

9. In the present case, the claim of the plaintiff-appellant was set up on the basis of a Will dated 25.08.1998 alleged to have been executed by her mother. As held by both the Courts, the alleged Will was not proved by the plaintiff-appellant. Only a photocopy of the Will (Ex.P1) was produced on the record. It was not explained as to where the original was. None of the attesting witnesses of the Will were examined. The plaintiff-appellant claimed that as per the Will of her mother, her brother had been disinherited, however, he was not made a party to the said litigation. Ex.P3 was a mutation of the property of Ralla Singh in the name of his legal heirs, however, the said mutation also could not be correlated to the khasra numbers as mentioned in the headnote of the plaint. The identity of the suit property itself was not clearly established by the plaintiff-appellant. Infact, it was held by both the fact-finding Courts that the plaintiff-appellant failed to prove that the mother of the plaintiff-appellant was the owner of the suit property and further that she had bequeathed it in her favour. In the absence of any cogent evidence having been led by the plaintiff-appellant to establish her case, no fault can be found with the findings recorded by both the fact-finding Courts.

10. In view of the above, no question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

09.09.2025  
Yogesh Sharma

( ALKA SARIN )  
JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO