

(1985) 12 P&H CK 0001

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Regular Second Appeal No. 792 of 1977

Malkiat Devi

APPELLANT

Vs

Naresh Singh and Another

RESPONDENT

Date of Decision: Dec. 6, 1985

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: Gurdial Singh, for the Appellant; Shri H.L. Sarin and Shri A.S. Grewal, for the Respondent

Judgement

J.V. Gupta, J.

This is Plaintiff's Second Appeal whose suit for possession has been dismissed by both the Courts below.

2. Shmt. Mansa Devi was the owner of the suit property. She died on 11th August, 1967 The Plaintiff, claiming herself to be the daughter of the deceased, filed the present suit, as according to her she was the only heir, and, as such was entitled to the property which was in possession of the Defendant without any right. In the Written Statement, the Defendants set up a "Will in their favour, executed by Mansa Devi on 19th July, 1967, in a sound and disposing mind. It was further pleaded that the Defendants and their parents were rendering services to her and in lieu of those services, she executed the will in their favour. The Defendants are the sons of Harbans Singh, son of Ranbir Singh who is the brother of the husband of Mansa Devi. In the replication, the said will was contested by the Plaintiff. The trial court after discussing all the alleged suspicious circumstances came to the conclusion that the deceased Mansa Devi had executed a valid will (Ex D1) in favour of the Defendants in a sound disposing mind, and with a free will As a result of this finding, the suit was dismissed. In appeal, the learned Additional District Judge affirmed the finding of the trial court and, thus maintained the decree, dismissing the suit. Dissatisfied with the same, the Plaintiff has filed the present appeal.

3. Learned Counsel for the Appellant contended that there are many suspicious circumstances which have not been explained by the legatee Defendants, and therefore, the will in question could not be held to be a valid one. According to the learned Counsel, nothing has been stated in the will as to why the only heir of the deceased i.e., the Plaintiff being the daughter, was being deprived of the property. Moreover, argued the learned Counsel, the legatees took active part at the time of the execution of the Will, and, therefore, the same could not be held to be a validly executed Will.

4. After hearing the learned Counsel for the Appellant, I do not find any merit in this appeal. On the appreciation of the entire evidence, considering the alleged suspicious circumstances, it has been concurrently found by the courts below that the Will in question was validly executed by Mansa Devi in favour of the Defendants. It has been further found that the Defendants have been rendering services to the deceased Mansa Devi, and it was in lieu of the services rendered by them and their parents that the will was executed in their favour. Consequently, the appeal fails and is dismissed with no order as to costs.