

Chand Singh Vs Nand Singh

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 23, 2003

Citation: (2004) 1 LJR 65 : (2003) 4 RCR(Civil) 238

Hon'ble Judges: Viney Mittal, J

Advocate: Shri J.R. Mittal, Sr. Advocate with Shri Lalit Sharma, Advocate. None for Respondent, Advocates for appearing Parties

Judgement

Viney Mittal, J.

The plaintiff is in appeal. He filed suit for possession. He claimed that he was entitled to the estate of Narain Singh to the

exclusion of defendant Nand Singh on the basis of his being the son of Phuman Singh as well as on the basis of Will dated September 23, 1974

claimed to have been executed by Narain Singh.

2. One Dal Singh had two sons, namely, Khazan Singh and Sher Singh. Khazan Singh had two sons, namely Narain Singh and Harnam Singh.

Harnam Singh died issueless and widowless. Narain Singh also had no widow or issue. His estate is in dispute. The other son of Dal Singh,

namely, Sher Singh had three sons, namely Jiwan Singh, Panjab Singh and Kheona Singh. Panjab Singh and Kheona Singh also died issueless.

Jiwan Singh had two sons, namely, Kehar Singh and Phuman Singh. The plaintiff claimed that he was the only son of Phuman Singh, whereas the

claim of the defendant is that he was also the son of Phuman Singh. The plea of defendant that he is son of Phuman Singh was contested by the

plaintiff.

3. The learned trial Court on the basis of evidence led by the parties held that the Nand Singh, defendant was shown to be the son of Phuman

Singh and as such he is entitled to equal share in the estate of Narain Singh along with plaintiff Chand Singh. With regard to the Will dated

September 23, 1974 set up by the plaintiff, claimed to have been executed by Narain Singh in support of his claim, it was held that the said Will

was surrounded by suspicious circumstances. Accordingly, the suit filed by the plaintiff failed.

4. The matter was taken up in appeal. In appeal also, the learned first appellate Court reappraised the entire evidence and affirmed the findings

recorded by the learned trial Court. The appeal of the plaintiff also failed before the learned first appellate Court.

5. I have heard Shri J.R. Mittal, learned senior counsel appearing for the appellant and have perused the record of the case.

6. As far as the question of relationship of defendant Nand Singh with Phuman Singh is concerned, the said relationship had been duly proved by

the defendant by leading cogent evidence. The witnesses produced by the defendant had proved that Nand Singh is also known as Sada Nand

and that Panjab Kaur wife of Phuman Singh had given him birth. Chand Singh, plaintiff had admitted in the statement rendered before the learned

trial Court that his father Phuman Singh had executed a Will in his favour as well as in favour of Nand Singh about 33.1/2 years prior to his death.

In the aforesaid Will, Phuman Singh had described Nand Singh as his son. The certified copy of the aforesaid Will dated June 28, 1969 had been

proved on record as Ex.P15. Perusal of the aforesaid Will clearly shows that Chand Singh and Nand Singh had thumb marked the said Will. On

the basis of aforesaid fact alone, the relationship between Nand Singh and Phuman Singh stands clearly proved. In fact, plaintiff Chand Singh is

even estopped from challenging the aforesaid relationship.

7. This brings me to the next question raised by Shri J.R. Mittal. Shri Mittal specifically challenged the finding recorded by the Courts below with

regard to the Will, Ex. P.1, dated September 23, 1974. It is claimed that the said Will was duly proved and shown to have been executed by

Narain Singh and the same could not have been rejected by the Courts below being suspicious in nature.

8. I find myself unable to agree with the said contention of the learned counsel. In fact both the attesting witnesses of the Will, namely, Jaggar Singh

and Gurcharan Singh are the residents of Village Jhanduke. Narain Singh resided in village Hirke. No explanation has come on record as to how

and why the aforesaid Narain Singh chose to select the witnesses from another village. The Will is claimed to have been executed on September

23, 1974. It was presented before the SubRegistrar on October 4, 1974. At the time of registration also the same witnesses were taken. No

person from village Hirke was associated. This fact is itself a suspicious circumstance which has not been explained at all. Even otherwise the

evidence on the record shows that the aforesaid Narain Singh had already renounced the world and had become a Sanyasi. The plaintiff's own

witness, namely, PW3, Ram Gir deposed that Narain Singh was his Guru Bhai and both of them were the Chelas of the same Guru, namely,

Chanan Gir. The evidence of the aforesaid witness clearly means to say that once the aforesaid Narain Singh had become a Sadhu and renounced

the world at the age of about 40 years that is about 20 years prior to his death, then there was absolutely no occasion for him to come to the

village and execute the Will in question as claimed by the plaintiff.

9. The aforesaid circumstances have not been explained at all by the plaintiff. Accordingly, I do not find that the findings recorded by the learned

Courts below suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

In these circumstances, I do not find any merit in the present appeal and the same is dismissed. No order as to costs.