

**In the Court of Ms. Harmandeep Kaur, Civil Judge (Jr.
Division), Gurdaspur.**

PBGD020017132018



Presented on : 18-08-2018
Registered on : 18-08-2018
Decided on : 08-05-2019
Duration : 0 years, 8 months, 21 days

Cs 1067/2018

Civil Suit No. 354 of 18.08.2018
RBT No. 218 of 30.09.2018
Decided on: 08.05.2019

1. Ashok Kumar Aged 56 Years son of Roshan Lal
 2. Baby aged 55 years wife of Ashok Kumar
- Both residents of H.No. 5, Geeta Bhawan Mohalla, Basant Wali Gali,
Gurdaspur Tehsil and District Gurdaspur.

.....Plaintiffs

Versus

General Public

.....Defendant.

Suit for Declaration to the effect that Rahul Kumar
(Son of the plaintiffs) and his wife Rekha (daughter in
law of the plaintiffs) are disinherited members of the
family having no right, title and interest in the movable
and immovable property of the plaintiffs and they have
got no concern left with the plaintiffs.

Present: Sh. Rajneesh Kaushal Advocate counsel for plaintiff.

Defendant exparte.

JUDGMENT

The plaintiff has filed the present suit for Declaration against the defendant as fully detailed and described in the head note of the plaint.

2. The brief facts of the case of the plaintiff are that the plaintiff are the husband and wife and the plaintiff No. 1 is serving on part time basis in Punjab Police and the plaintiff No. 2 is serving MES Department, Tibri Cantt. Gurdaspur. Both the plaintiffs have good reputation in their locality as well as in their departments. It is further submitted that the plaintiffs have immovable properties situated in Geeta Bhawan Mohalla, Basant Wali Gali, Gurdaspur Tehsil & District Gurdaspur and at Batala Tehsil Batala District Gurdaspur. These properties are the self acquired properties of the plaintiffs. It is further submitted that the plaintiffs have five children i.e. three daughters namely Poonam, Jyoti and Sapna and two sons namely Sunil and Rahul Kumar. All the children of the plaintiffs are married. It is further submitted that the youngest son of the plaintiffs namely Rahul Kumar was married to Rekha daughter of Rashpal Masih resident of Village Lodhipur on 25.02.2016 and after about six months from the date of marriage, Rahul Kumar and his wife Rekha started harassing the plaintiffs on one pretext or another, used filthy language against the plaintiffs and became out of control of the plaintiffs. They do not even respect the plaintiffs. Due to unwarranted activities of Rahul Kumar and his wife, the life of the plaintiffs became hell and it became difficult for the plaintiffs to live in the society as Rahul Kumar and his

wife used to quarrel with the plaintiffs and other family members. These acts of Rahul Kumar and his wife cause mental agony and torture to the plaintiffs, therefore the plaintiffs had not options except to disinherit Rahul Kumar and his wife Rekha from movable and immovable properties of the plaintiffs because all the properties of the plaintiffs are self acquired. The plaintiffs have executed an Affidavit dated 13.03.2018 in this respect and published a disinherit public notice in the daily newspaper Nawan Zamana dated 14.08.2018. It is further submitted that when the son and daughter in law of the plaintiffs came to know that they have been disinherited from movable and immovable properties of the plaintiffs, then son and daughter in law of the plaintiffs alongwith parents and brother of their daughter in law quarreled with the plaintiffs on 15.08.2018 and they threatened the plaintiffs that if the plaintiffs did not transfer the whole properties in favour of their daughter in law then the plaintiffs will be involved in a false and frivolous criminal case. The plaintiffs have also filed a complaint against them in the Police Station City, Gurdaspur on 16.08.2018. It is further submitted that the cause of action has arisen in favour of the plaintiffs and against the defendants when the son and daughter in law of the plaintiffs started to harass the plaintiffs and on 14.08.2018 when the plaintiffs published a disinherit public notice in daily newspaper and also on 15.08.2018 when the son and daughter in law of the plaintiffs quarrel with the plaintiffs and finally refused to admit the legitimate claim of the plaintiffs. Hence, this present suit.

3. Upon notice, none appeared on behalf of the defendant, as such, he was proceeded ex parte vide order dated 11.02.2019.

4. In ex parte evidence, plaintiff himself stepped into the witness box as PW-1, Baby examined as PW-2, Soma examined as PW-3 and Satpal Municipal Councilor examined as PW-4 and thereafter learned counsel for plaintiff closed evidence on behalf of plaintiffs after tendering into documents Ex. P4 and Ex. P5.

6. I have heard the Ld. Counsel for the plaintiff and have also gone through the case file.

7. Now by way of present suit the plaintiff has sought for relief of declaration to the effect that persons namely Rahul Kumar (son of plaintiff) and his wife Rekha (daughter in law of plaintiff) are disinherited members of family and have got no right title or interest in the movable and immovable properties. Now plaintiff in order to substantiate his claim has himself stepped into the witness box as PW-1, who tendered into evidence his duly sworn affidavit Ex. PW1/A, wherein he reiterated all averments of plaint, which need not be mentioned over here for sake of brevity. Thereafter plaintiff No. 2 Baby stepped into the witness box as PW-2 and also tendered into evidence her duly sworn affidavit Ex. PW2/A and stated on lines of the plaint. Thereafter they have examined PW-3, who is the neighbour of the plaintiffs. She has stated on the lines of the case of the plaintiff and corroborated their entire testimony. Thereafter plaintiffs have examined Satpal Municipal Councilor, who has also stated

that the plaintiff has disinherited his son and daughter in law from his movable and immovable properties. He has also further submitted that all the immovable property situated in Geeta Bhawan Mohalla, Tehsil and District Gurdapsur and at Batala of the plaintiffs are their self acquired property. Plaintiff in order to substantiate their claim has also place upon record affidavit dated 13.08.2018, wherein he has stated that his son Rahul Kumar and daughter in law Rekha are not at good terms with the plaintiff and always threatens to beat them and therefore the plaintiff have disinherited Rahul Kumar and Rekha from their entire movable and immovable property. They have further submitted that any person dealing with Rahul and Rekha shall be personally liable. Further on affidavit appears the signatures of both Baby and Ashok Kumar. Thereafter the plaintiff in order to substantiate his claim has also placed upon record photocopy of the newspaper, where notice regarding disowning Rahul Kumar and Rekha has been mentioned and the same is Ex. P2. Now the plaintiff has placed upon record attested copy of sale deed dated 19.03.1999 as Ex. P3 in order to show that the property is his self acquired property.

8. Now the evidence led upon record by the plaintiff has remained unchallenged and uncontroverted. Now even though by placing upon sufficient evidence from where it is comes out that the plaintiff has disinherited his son by publication of notice in newspaper on 14.08.2018 and he has also placed a sufficient record to show that the property is his self acquired property but still this Court of the considered view that even

the unchallenged testimony of the plaintiff witnesses supported by the aforesaid documents does not prove that the plaintiff is entitled to the relief of declaration as prayed for, because it is settled position of law that the only manner in which a person can disinherit his children from his movable and immovable properties is by making Will. Now, further this Court do not have power under any of the law to declare that any individual has disinherited his children from his movable and immovable properties. Therefore the relief claimed by the plaintiff do not appeal to the intellect of this Court. Moreover, it is noteworthy that by giving declarations in such kind of matters, this Court would be impinging upon the right of an individual to execute his fresh Will in favour of the children who has been disinherited by him in case in future the plaintiff change his mind to take back his words of disinheriting his children. Now moreover, in case of self acquired properties, it is settled law that the son whether married or unmarried has not legal right to live in that house and he can live in their parents house only the mercy of his parents up to the time his parents allows. Thus this Court do not find any merits in the present suit of the plaintiff. Therefore, in the light of aforementioned discussion, suit stands dismissed. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance.

Pronounced in the open court.
Dated:-08.05.2019.
Rohit Tandon/Steno-III

(Harmandeep Kaur)
Civil Judge (Junior Division),
Gurdaspur/UID-PB0555

Present: Sh. Rajneesh Kaushal Advocate counsel for plaintiff.
Defendant exparte.

Arguments heard. Vide my separate detailed judgment of even date, the suit of the plaintiff is hereby dismissed. Decree sheet be prepared. File be consigned to the Record Room.

Pronounced in the open court.
Dated:- 08.05.2019.
Rohit Tandon/Steno-III

(Harmandeep Kaur)
Civil Judge (Junior Division),
Gurdaspur/UID-PB0555