



RSA-1972-1997 (O&M)

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

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RSA-1972-1997 (O&M)
Reserved on:-07.11.2025
Pronounced on : 01.12.2025
Uploaded on:- 02.12.2025

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced:*

operative part/full judgment

Jasjeet Singh

....Appellant

VERSUS

Kuldip Singh (since deceased) through LRs

....Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Arshdeep S. Khaira, Advocate for the appellant.

Respondent Nos. 1(i) and 1(ii) proceeded against ex-parte
Vide order dated 26.04.2024.

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MANDEEP PANNU, J.

1. The present Regular Second Appeal has been filed by the appellant—Jasjeet Singh assailing the judgment and decree dated 25.04.1997 passed by the learned Lower Appellate Court whereby the appeal filed by the plaintiff Kuldip Singh was accepted and the suit for recovery and declaration stood decreed.

Brief Facts

2. The dispute arises out of the estate and movable assets of late Mohan Singh. The case of the plaintiff before the trial Court was that Mohan Singh, father of the parties, was residing in House No. 92, Sector 21-A, Chandigarh and being a widower was staying alone. The plaintiff, being in service, used to frequently visit him. It was stated that the house at Chandigarh had been purchased out of family savings when the family was joint. According to the plaintiff, his son Hardip Singh



also used to stay with Mohan Singh, and in 1988 when Mohan Singh, then about 85 years of age, started losing his mental balance, the defendant manipulated and influenced him with an ulterior motive and, keeping the matter concealed, got the house sold. Out of the sale consideration, an amount of ₹5,40,000/- was deposited in Punjab & Sind Bank, Phase -5, Mohali. The plaintiff alleged that the defendant was withholding information about the sale deed and the sale proceeds. He issued a notice demanding disclosure of the bank account and sale particulars, but according to him no reply was furnished. The plaintiff had earlier filed a suit at Chandigarh seeking mandatory injunction to restrain disbursement of the bank amount, in which an interim order was passed restraining the bank. The defendant also instituted a separate suit for mandatory injunction against the bank. The plaintiff asserted that the amount in the FDR and savings account constituted the estate of late Mohan Singh, who had died intestate, and that he was entitled to half share. The apprehension expressed was that the defendant would withdraw the money and utilize the same, and, therefore, the suit for recovery of half share and declaration of rights in the FDRs and bank amounts was filed.

3. The defendant, in his written statement, denied all allegations and asserted that the Chandigarh house had been purchased by Mohan Singh from his own savings after retirement. It was denied that the plaintiff contributed any amount or ever resided with Mohan Singh. Rather, it was alleged that the plaintiff had strained relations with the father and had not even visited him for several years. The defendant stated that Mohan Singh was fully competent and of sound disposing mind till three days prior to his death and that the sale consideration of the house was lawfully received and thereafter deposited in a joint account of Mohan Singh and the defendant with instructions payable to either or survivor. It



was further pleaded that Mohan Singh had executed a registered Will in favour of the defendant, while giving a portion of his Jalandhar house to the plaintiff, and that the movable estate including the FDRs had been bequeathed to the defendant. It was asserted that the plaintiff had never applied for succession certificate as he was aware that the amount stood in joint names payable to either or survivor. The Will was claimed to be genuine and executed in sound mind.

4. Plaintiff filed a replication reiterating the contents of the plaint and denying those of the written statement.

5. On the pleadings of the parties, the learned trial Court framed the following issues:-

1. Whether the plaintiff is entitled to recovery of Rs.8,650/- along with interest? OPP.
2. Whether the plaintiff is entitled to recovery of $\frac{1}{2}$ share in the FDR in question? OPP
3. Whether the suit of the plaintiff is not maintainable?OPD
4. Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD
5. Whether the plaintiff is entitled to the declaration prayed for? OPP
6. Whether the plaintiff is entitled to the injunction prayed for? OPP
7. Whether the defendant is entitled to special costs? OPD
8. Relief.

Issue No.2 was amended by the learned trial Court after it had come to its knowledge that the plaintiff has not prayed for recovery of $\frac{1}{2}$ share in the



FDR rather he has sought the declaration that he is entitled to $\frac{1}{2}$ share in the FDR.

The amended issue is as under:-

“Whether the plaintiff is entitled to the suit for declaration that his entitled to $\frac{1}{2}$ share in FDR in question? OPP”

6. The evidence of both sides was recorded, including officials from the banks, medical practitioners, and other witnesses familiar with the family circumstances and documents.

Findings of the learned Trial Court

7. The trial Court, on an appreciation of the pleadings and evidence, held that the plaintiff had failed to prove any right, title or interest in the amounts withdrawn by the defendant from the joint savings account or the FDRs standing in the joint names of Mohan Singh and the defendant, as the accounts were operated under the mandate of “either or survivor” and the bank officials had corroborated that the withdrawal was in accordance with the rules. The Court rejected the plaintiff’s plea that the sale proceeds of House No.92, Sector 21-A, Chandigarh belonged to a joint Hindu family or that he had contributed towards its purchase or construction, observing that no documentary evidence was produced and that the material on record showed that Mohan Singh had purchased and constructed the property from his own savings, retirement benefits and loans. The Court further found no substance in the allegation that Mohan Singh, aged about 80 years, was of unsound mind or had been subjected to undue influence, holding instead that the defendant had proved the execution of the registered Will dated 28.7.1988 through the testimony of the scribe and attesting witness, and that the signatures of the testator matched with his admitted signatures. The Will was, therefore, accepted as genuine and free from suspicion. The plaintiff’s reliance on the principle that a



survivor of a joint account is only a custodian was held inapplicable, since Mohan Singh had not died intestate but had clearly expressed his intention through the Will bequeathing the movable and immovable estate to the defendant. Consequently, the Court concluded that the plaintiff had no enforceable claim to the amounts in dispute, that no ground for declaration or injunction was made out, and dismissed the suit with parties left to bear their own costs.

Findings of the Lower Appellate Court

8. The Lower Appellate Court, after re-appraising the entire evidence, held that the approach of the trial Court towards the proof of the Will (Ex.D-1) was perfunctory and that the suspicious circumstances surrounding its execution had not been duly considered. The appellate Court found multiple factors casting serious doubt on the genuineness of the Will, including the active participation of the beneficiary Jasjit Singh in getting the Will prepared and registered, the use of close relatives and interested persons as attesting witnesses, the omission of any satisfactory reason for excluding the plaintiff Kuldip Singh from the substantial estate of Mohan Singh, the advanced age and feeble mental and physical condition of the testator, the unexplained recital regarding revocation of an earlier Will dated 21.12.1983, and the failure to examine Jasbir Singh, the witness who had identified Mohan Singh before the Sub-Registrar. It was also noted that the recitals in the Will were inconsistent with the admitted circumstances and that there was no material to show that Mohan Singh had any grievance against the plaintiff. The Court further held that the conduct of Jasjit Singh in manipulating the sale proceeds, influencing Mohan Singh in the sale of the Chandigarh house, appropriating a part of the sale money, and converting bank accounts and FDRs in a manner favourable to himself, strengthened the inference of undue influence. In



view of these cumulative suspicious circumstances, the appellate Court held that the Will did not represent the true and free intention of Mohan Singh and that the defendant had failed to remove the legitimate doubts attached to its execution. Consequently, the findings of the trial Court on issues 1, 2, 5 and 6 were reversed, and the suit of the plaintiff was decreed, declaring him entitled to half of the amount of the FDR of ₹5,40,000/- and half of the amount standing in Savings Account No.7855 in Punjab & Sind Bank, Mohali, as on the date of Mohan Singh's death.

9. Aggrieved by the judgment and decree dated 25.04.1997 passed by the Lower Appellate Court, defendant Jasjeet Singh has approached this Court by way of filing of the present regular second appeal.

10. Despite service, the respondents have not appeared before this Court and were accordingly proceeded against ex parte.

Submissions of learned counsel for the appellant

11. In the present Regular Second Appeal, the appellant has contended that the judgment of the Lower Appellate Court is legally erroneous because the suit filed by the plaintiff was essentially one for a declaration regarding entitlement to the amounts lying in the joint bank account and for recovery of half share thereof, and not a suit resting on questions of title to immovable property. According to the appellant, the real issue before the courts below was a narrow and simple one, namely whether in a joint "either or survivor" account, the surviving account holder is entitled to withdraw the entire amount standing to the credit of the account on the death of the other holder, or whether the matter is to be decided on the basis of succession and determination of legal heirs. It is argued that once the account was admittedly opened by Mohan Singh and the appellant jointly in the



“either or survivor” mode, the bank was bound in law and banking practice to honour the withdrawal of the appellant and treat it as a valid discharge, and that the Lower Appellate Court erred in converting this simple enquiry into a detailed scrutiny of the Will executed by Mohan Singh. The appellant further contends that the Lower Appellate Court has erred in holding that the Will was shrouded in suspicious circumstances, whereas according to him the Will was duly registered, the contents were read over to the testator, and the testator admitted them to be correct before signing. It is argued that the Will itself confirms that the appellant was entitled to the amount and that Mohan Singh had no intention to give any part of the amount to the respondent, and that the Lower Appellate Court ignored this material aspect. The appellant stresses that the execution of the Will was almost two years prior to the death of Mohan Singh, that Mohan Singh was of sound disposing mind, that the appellant was the one who looked after him in his old age when the respondent declined to take him to his residence, and that these surrounding circumstances naturally explain why the testator would repose greater faith in the appellant. According to the appellant, the finding of the Lower Appellate Court that the Will was manipulated is wholly unfounded, and the court failed to consider that the Will was executed and signed in the presence of the Sub Registrar, who certified the due identification of the testator. The appellant further submits that the Lower Appellate Court failed to appreciate common banking practice whereby dates or witness names are often filled in at the time of registration, and such procedural aspects cannot by themselves create suspicion. It is lastly argued that the Lower Appellate Court wrongly treated the question of the Will as the central issue when in fact the dispute could be resolved solely on the



basis of the nature of the bank account and the mandate given to the bank by the account holders.

Findings of this Court

12. Having examined the record and the concurrent factual position that the account in question was indeed opened in the “either or survivor” mode, it is evident that such mandate authorises the bank to release the entire amount to the surviving account holder without insisting upon succession certification. However, that mandate binds the bank in making a valid discharge. It does not, by itself, determine the beneficial ownership of the money as between the parties *inter se*. The right to operate the account and the right to succeed to the beneficial interest in the deposit are distinct matters.

13. Having held that the mandate of an “either or survivor” account governs only the bank’s obligation to make a valid discharge, and does not by itself determine beneficial ownership as between the parties *inter se*, the next question that arises is whether the appellant has succeeded in proving that under the Will relied upon by him, the deceased Mohan Singh intended to vest the entire amount in the appellant, so as to exclude the natural course of succession. On an examination of the evidence on record, it becomes apparent that the Will set up by the appellant cannot be accepted as a free and voluntary declaration of the testator’s last wishes. The Lower Appellate Court has catalogued several serious infirmities which strike at the root of the Will’s genuineness, and on reappraisal of the same, this Court finds no ground to take a different view. The Will was prepared at the instance of the appellant, typed in a form and manner convenient to him, and the appellant admittedly played an active role at every stage in its drafting, in arranging the witnesses, and in taking the testator for registration. The

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attesting witnesses are not independent, one is a close relative residing in the same house as the appellant and the other is the appellant's income-tax lawyer, and their testimony contains contradictions on material aspects such as the presence or absence of the appellant at the time of execution, thus reinforcing the suspicion of undue influence. The recital in the Will that the testator wished to exclude the plaintiff because the appellant had been helping him financially is contradicted by the evidence which shows that Mohan Singh had been living separately in Chandigarh until 1988 and had not been receiving special care or support from the appellant. Further, the Will is completely silent on the heavy deposits flowing from the sale of the house, even though the effect of the dispositions is to divert the entirety of that amount to one son without a plausible reason for excluding the other. The recital purporting to revoke an earlier Will dated 21.12.1983 introduces an anomaly because during cross-examination the appellant himself expressed uncertainty about the existence of such a Will and stated that his father had never mentioned its execution to him. This unexplained inconsistency itself casts a serious shadow on whether Mohan Singh understood the contents of what he was signing. The surrounding circumstances also cannot be ignored, the testator was about 85 years of age at the time of execution, his eyesight had weakened, his hearing had declined, and witnesses who were close relatives stated that his memory had become short. The appellant had taken control of the testator's finances shortly before the Will, had persuaded him to sell the Chandigarh house, and had handled the sale proceeds in a manner favourable to himself, including converting FDRs, withdrawing large amounts, and purchasing a car without accounting for the funds. All these circumstances, taken cumulatively, create a legitimate and substantial doubt as to whether the testator was acting out of his



own free will or whether the dispositions reflect the appellant's influence rather than the testator's true mind. The fact that the Will is registered does not, in the circumstances of this case, remove the suspicion. Registration only proves that the document was presented and signed, not that the dispositions were voluntary and understood. The appellant has thus failed to dispel the suspicious circumstances which surround the Will, and I concur with the Lower Appellate Court that the Will cannot be treated as duly proved so as to displace the normal rule of succession.

14. Consequently, in the absence of a valid and proved testamentary disposition in favour of the appellant, the beneficial interest in the deposits must follow the ordinary course of inheritance, and the entitlement of the plaintiff to half share in the amounts standing in the joint account and in the FDRs on the date of Mohan Singh's death stands affirmed.

Conclusion

15. The findings of the Lower Appellate Court regarding the non-proof of the Will and the consequent succession to the joint deposits are findings of fact based on proper appreciation of evidence and call for no interference. The appellant has failed to establish any legal infirmity in the impugned judgment. The appeal is accordingly dismissed.

16. Pending application(s), if any, also stands disposed of.

December 01, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No.