

In nutshell, one Balbir Singh died unmarried and issueless. The plaintiffs/respondents are cousin sisters of Balbir Singh (maternal uncle's daughters) and the defendants (appellants

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herein) are the nephews i.e real brother's sons. According to the plaintiffs/respondents, deceased Balbir Singh left behind a registered Will dated 29.9.2008, in favour of the plaintiffs/respondents, whereas the defendants/appellants claimed that he (Balbir Singh) had executed a registered Will dated 23.5.2008, in their favour (i.e. defendants/appellants). Balbir Singh died on 4.10.2008 at village Mauli Baidwan (Maul Basidwan), Tehsil and District Mohali i.e. village of plaintiff/respondent No. 1. Plaintiff/respondent No. 2 is residing in some other village i.e. village Siyalu, Tehsil Ghanour, District Patiala. The defendants/appellants are residing in village Faridpur Jattan, Tehsil Ghanour, District Patiala. The lower Court held that the Will set up by the defendants/appellants was cancelled by the subsequent Will executed in favour of plaintiffs/respondents and consequently, the suit was decreed. The findings were affirmed in appeal.

The learned counsel for the defendants/appellants has argued that only one attesting witness was examined to prove the Will and that the testator was not of sound disposing mind. He died five days after execution of the Will in favour of plaintiffs/respondents. Therefore, the Will set up by the plaintiffs/respondents is surrounded by suspicious circumstances and could not be relied upon. It is further contended that the Will set up by the defendants/appellants was not mentioned by date and in

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the Will set up by the plaintiffs/respondents, a general statement was made that the previous Will stands cancelled.

The perusal of the judgments and decrees of both the Courts below shows that the attesting witness to the Will executed in favour of the plaintiffs/respondents appeared and proved the same. In the statement, he has also stated that at the time of execution of the Will, the testator was in sound disposing mind. The Will was scribed by an advocate and after its execution, the testator himself went to the office of concerned Sub Registrar, where he again testified before the registering authority regarding due execution of the Will. Had the deceased (testator) not being in sound disposing mind, the Sub Registrar would not have registered the Will. In this way, the execution of Will in favour of the plaintiffs/respondents is duly proved. There is nothing on file to show that the deceased was not of sound disposing mind. The deceased was unmarried and issueless. None of the parties are his Class-I heirs. The defendants/appellants are his nephews, whereas the plaintiffs/respondents, who are married daughters of maternal uncle of the deceased, are living in different villages. The deceased died in the village of plaintiff/respondent No. 1. Therefore, plaintiff/respondent No. 2 had no occasion to meet the deceased at the time of execution of Will. The lower Court has rightly concluded that the plaintiffs/respondents are not able to influence the Will of the

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deceased and the Will appears to be the natural desire of the deceased to bequeath the property in favour of the married daughters of his maternal uncle. The findings of facts have been recorded by both the Courts below. There is no ground to interfere in the concurrent findings recorded by two Courts below. Therefore, no substantial question of law arises in the present regular second appeal. Hence, the same is dismissed.

(KULDIP SINGH)
JUDGE

14.12.2015
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