

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-1848-1989(O&M)
and X-Objection-4-C-1990
Date of decision: 25.07.2022

Harbans Lal and another

..Appellants

Versus

Ram Parkash (deceased) through his LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sukhdev Singh Kanwal, Advocate
for the appellants.

Mr. Prabhjot Singh Chahal, Advocate, for
Mr. G.S.Nagra, Advocate
for respondent 1 and 6 to 9.

ANIL KSHETARPAL, J(Oral)

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh, are governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in **Pankajakshi (Dead) through LRs vs. Chandrika and others, (2016) 6 SCC 157.**

2. This judgment shall dispose of Regular Second Appeal No.1848 of 1989 and Cross Objection No.4-C-1990 .

3. The dispute is with respect to the estate left by late Smt. Bhagwanti widow of Sh. Mehar Chand. She has left behind her husband and 5 children, including her three sons and two daughters. The plaintiffs (Sh.

Harbans Lal and Sh. Harnam Singh) claim succession on the basis of a

registered Will, executed on 08.08.1978, allegedly executed by late Smt. Bhagwanti. Whereas defendant no.1, 5, 6, 7, 8 and 9, while contesting the suit asserted that late Smt. Bhagwanti executed a registered Will in favour of Sh. Ram Parkash, on 23.09.1981. Late Smt. Bhagwanti died on 17.10.1981. Now Sh. Mehar Chand (husband of late Smt. Bhagwanti), has also died, without leaving behind any testamentary disposition.

4. Both the Courts, keeping in view the conduct of the parties, including allegations of kidnapping their own mother, have recorded concurrent findings of fact that both the Wills (testamentary disposition) are surrounded by the suspicious circumstances. It may be noted here that Sh. Ram Parkash on the basis of a General Power of Attorney executed by late Smt. Bhagwanti, his mother, executed certain sale deeds in favour of his children. The trial Court found such execution to be doubtful. It has come on the record that the said property is located in District Hoshiarpur, whereas Sh. Ram Parkash used to reside in Delhi. The registered Will and the General Power of Attorney were alleged to have been executed in Batala, which falls under the area of District Gurdaspur. The sale deeds executed by Sh. Ram Parkash in favour of his children were executed after two days of the execution of General Power of Attorney.

5. Keeping in view the aforesaid facts, the trial court held that the property would devolve as per the rules of natural succession and each Class-I heir would inherit 1/6th share in the estate left by their mother late Smt. Bhagwanti. The First Appellate Court has affirmed the aforesaid findings of the trial Court.

6. The learned counsel representing the parties, after arguing at

some length, have come to a consensus. They jointly submit that they have no objection, if the decree passed by the trial Court is upheld with the observations that the area of the sale deed , if any, executed by Sh. Ram Parkash, in favour of his children, on the basis of General Power of Attorney allegedly executed by late Smt. Bhagwanti, which has been found to be doubtful/suspicious shall be adjusted from the share falling in favour of Sh. Ram Parkash.

- 7. Keeping in view the aforesaid facts, no ground to interfere is made out.
- 8. Dismissed.
- 9. Consequently, the cross-objection shall also stand disposed of accordingly.
- 10. All the pending miscellaneous applications, if any, are also disposed of.

July 25th, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*