

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

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**RSA-3232-2019(O&M)  
Date of decision: 17.08.2022**

**SURINDER SINGH (DECEASED) THROUGH LRS      ..Appellant**

**Versus**

**SUKHDEV SINGH AND ANOTHER      ..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:      Mr. Ashok Bhardwaj, Advocate  
                         for the appellant.

**ANIL KSHETARPAL, J(Oral)**

**CM-8668-C-2019**

For the reasons stated in the application for condonation of delay which is supported by an affidavit, the application is allowed, subject to all the just exceptions.

The delay of 326 days in refiling the appeal is condoned.

CM stands disposed of.

**Main**

The plaintiff through his legal representative assails the correctness of the concurrent findings of fact arrived at by the Courts below while dismissing his suit for grant of decree of declaration with a consequential relief of permanent injunction. The plaintiff and defendant No.1 are the sons of late Sh. Nachatar Singh.

Sh. Nachatar Singh executed a registered general power of attorney in favour of his elder son Sh. Sukhdev Singh (defendant No.1) on 13.09.1996. On the basis thereof, defendant No.1 executed a sale deed on 17.08.2000. The plaintiff claims that late Sh. Nachatar Singh executed a registered Will on 24.11.1997, bequeathing 2/3<sup>rd</sup> share in favour of the

plaintiff, whereas, 1/3<sup>rd</sup> share in favour of the defendant. The plaintiff prays that the aforesaid Will should operate qua the land held by late Sh. Nachatar Singh as on 24.11.1997. In other words, he claims that the sale deed executed by late Sh. Nachatar Singh through Sh. Sukhdev Singh should be adjusted in the share bequeathed in favour of the defendant.

It is evident that late Sh. Nachatar Singh remained alive for a period of more than 5 years even after the sale deed dated 17.08.2000, was executed by Sh. Sukhdev Singh on the basis of the general power of attorney executed by late Sh. Nachatar Singh on 17.08.2000. Sh. Nachatar Singh could have changed the testamentary disposition if the sale of the property was not in accordance with his wishes. Late Sh. Nachatar Singh never challenged the correctness of either the general power of attorney or the sale deed during his lifetime. The general power of attorney executed by late Sh. Nachatar Singh has been proved on file. Both the Courts on appreciation of evidence have recorded the concurrent findings of fact. Though, the learned counsel representing the appellant made sincere attempts, however, failed to draw the attention of the Court to any material misreading, non-reading of evidence or perversity in the judgments passed.

Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

**August 17<sup>th</sup>, 2022**

*Ay*

**(ANIL KSHETARPAL)**  
**JUDGE**

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