



2024:DHC:5232



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on:- 18th May, 2024**Date of Decision:- 16th July, 2024*

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TEST. CAS 10/1996**SMT. AMRIT KAUR & ANR.**

..... Petitioner

Through: Mr. Harish Malhotra, Senior Advocate
with Mr. Pawanjit Singh Bindra
Senior Advocate, Ms. Payal Juneja
and Mr. Jaspreet Singh Kapur, Adv.
(M:9810650004)

versus

STATE & ORS.

..... Respondents

Through: Mr. Ved Prakash Sharma & Ms. Amrit
Kaur Oberoi & Ms. Abha Sharma,
Adv. for D-1
Ms. Renu Verma, Adv. for Objector-2.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUDGMENT****PRATHIBA M. SINGH, J.**

1. This hearing has been done through hybrid mode.

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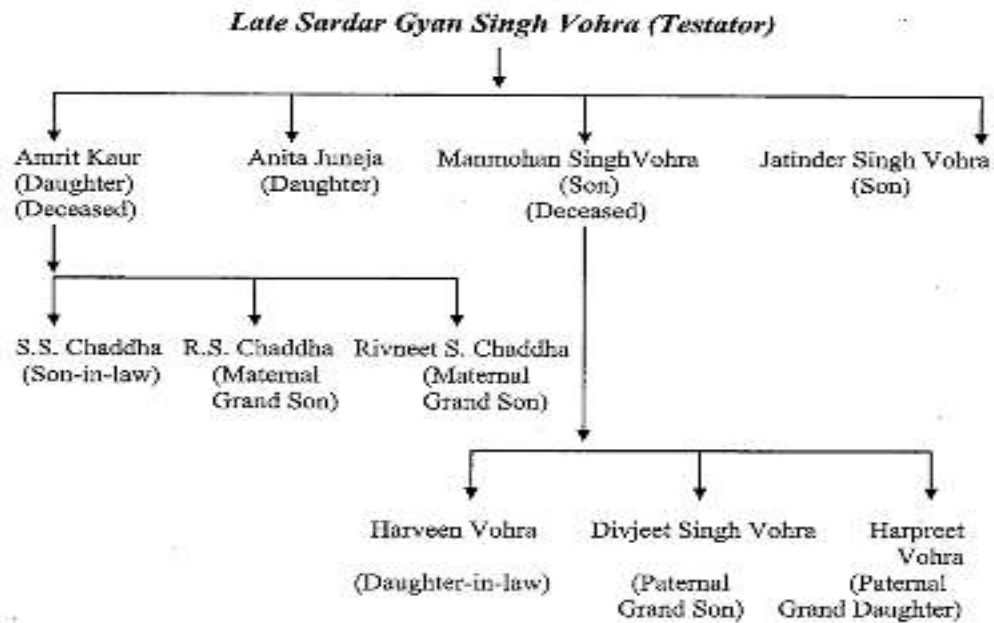


A. Background

2. The present testamentary petition has been filed under Section 276 of the Indian Succession Act, 1925 (*hereinafter, 'ISA'*), seeking grant of letters of administration in respect of a purported Will dated 7th November 1994, of late Mr. S. Gyan Singh Vohra, Sr. Advocate (*hereinafter, 'the Testator'*), who was practising in this Court.

3. The petition has been preferred by his two daughters, Petitioner No. 1 - Mrs. Amrit Kaur (@Ameeta Chadha) and Petitioner No. 2 - Mrs. Anita Juneja. Petitioner No. 1 is survived by her two sons, Mr. Rominder Singh Chadha and Mr. Rivneet Singh Chadha. The objectors to the present petition are the sons of late Sardar Gyan Singh Vohra, Objector No. 1 - Mr. Manmohan Singh Vohra and Objector No. 2 - Mr. Jatinder Singh Vohra. The Testator admittedly passed away on 20th January, 1995, at the age of 85 years.

4. The background of the present petition is that late Mr. Gyan Singh Vohra, a celebrated Senior Counsel of this Court, had four children: two sons and two daughters, whose details are mentioned above. The family tree is reproduced below for easy reference:



5. He initially started his law practice in Daryaganj, New Delhi, and had acquired an immovable property in Niti Bagh, bearing no. '**A-14, Niti Bagh, New Delhi,**' admeasuring 800 sq. yards (*hereinafter, 'subject property'*). According to the records filed by the parties, the following are the various testamentary instruments he is stated to have executed before his death:

<i>Date</i>	<i>Type & Registration Status</i>	<i>Executors</i>	<i>For easy reference</i>
22 nd February, 1992	Registered Will	Mr. Man Mohan Singh Vohra & Mrs. Sushil Kaur Vohra	First Will
8 th October, 1993	Unregistered Will	Mr. Man Mohan Singh Vohra & Mr. Jatinder Singh Vohra	Second Will
18 th October, 1993	Registered Will	Mr. Man Mohan Singh Vohra & Mr. Jatinder Singh Vohra	Third Will



21 st August, 1994	Holographic Codicil (Unregistered)	-	Codicil
7 th November, 1994	Unregistered (last Will for which the Petitioners are seeking the grant of letters of administration)	No executors	Fourth Will

6. The first Will was executed by the Testator when his wife- Sardarni Sushil Kaur Vohra was alive. Thereafter, the Testator's wife and the mother of the Petitioners and the Objectors passed away on 19th September 1993. One part of the evidence deposed by the parties relates to circumstances surrounding her death which led to the Second and Third Will and thereafter a handwritten Codicil. The said Codicil is stated to have been handwritten by the Testator following a prayer ceremony held by the two daughters, i.e., the Petitioners, on 19th August, 1994, without reflecting the name of the Testator or his two sons and their respective families. The Objectors submit that the Codicil dated 21st August, 1994 was executed in the backdrop of the conduct of the Petitioners, i.e., the daughters, which had greatly upset the Testator.

7. The Petitioners' case is that after the said three Wills and the codicil, the Testator had executed a Fourth Will dated 7th November, 1994, possessing sound disposing mind and full disposing power. The said Fourth Will is claimed to have been executed by the Testator in the presence of three attesting witnesses:

- i. Anil Kapur, Advocate, R/o E-135, Greater Kailash I, New Delhi.
- ii. Shiv Nath Mehra, S/o Sh. D.N. Mehra, 174, Tilak Bazar, Delhi-6
- iii. T.S. Rana, S/o S. Sarup Singh Rana, 27/25, East Patel Nagar, N.D.



8. The Petitioners claim rights to the subject property on the basis of the Fourth Will by which the Testator had revoked his previous Wills dated 29th February, 1992, 8th October, 1993, 18th October, 1993 and Codicil dated 21st August, 1994 and declared the Fourth Will as his last will and testament.

9. The Petitioners argue that due to the strained relationship between the Objector No. 1- Mr. Manmohan Singh Vohra and the Testator, as well as the fact that Objector No. 2-Mr. Jitender Singh Vohra was a permanent resident of the USA, the Testator had no reason to deprive his daughters i.e., the Petitioners of his estate. Further, it is urged that all three attesting witnesses to the Fourth Will have testified in favour of its genuineness and authenticity. According to the Petitioners, it is also undisputed that the Testator was of sound disposing mind at the time of executing the Fourth Will. Therefore, the Fourth Will of the Testator is a valid and genuine testament.

10. On the other hand, the case of the Objectors is that the Fourth Will is a fabricated and forged Will. Only the Third Will, which is a registered Will, read along with the handwritten Codicil would be the enforceable and valid Wills.

B. Procedural History

11. Notice in the present petition was issued on 29th February, 1996 and an interim order was passed, restraining the Objector No. 1 from alienating or creating any third party interest in the subject property. The said interim order reads as follows:

“Mr. Manmohan Singh and his agents are restrained from alienating, transferring, creating any third party interest or parting with the possession of the property bearing No. A-14, Neeti Bagh, New Delhi in any manner until further orders”



12. The above interim order was made absolute during the pendency of the present petition on 29th August, 2005. Vide order dated 15th April, 1998, this Court proceeded to hear the present petition *ex-parte qua* Objector No. 2. On 5th August, 1998, the said order proceeding *ex-parte* against Objector No. 2 was set aside, and the Objector No. 2 was granted permission to file his objections. The respective written statement(s) on behalf of the Objectors was directed to be registered on 30th October, 2000. On 21st May, 2002, as Petitioner No. 1 had passed away, time was sought to implead the LRs of the said Petitioner. Subsequently, when the LRs of Petitioner No. 1 were impleaded vide order dated 9th January, 2006, proceedings in the present petition were adjourned from time to time to enable the parties to arrive at a compromise. The same is evident from the orders dated 1st February, 2005, 4th May, 2005, and 29th August, 2005.

13. On 9th January, 2006, the following issues were framed by this Court:

- “1. ***Whether the Will dated 07.11.1994 was validly executed by Late S. Gyan Singh Vohra? OPP***
2. ***Relief.***”

14. Thereafter, Objector No. 1 passed away on 13th August, 2008. LRs of the deceased Objector No. 1 were directed to be impleaded on 6th August, 2009. On 28th August, 2009, an ***I.A. 10971/2009*** under Order XIV Rule 5 CPC filed by the Objectors/Respondents was taken up, wherein the Respondents sought framing of an additional issue regarding the Third Will and the Codicil, stated to have been executed by the Testator. The Court allowed the said application, and framed an additional issue to the following effect:



“Whether the registered Will dated 18.10.1993. and codicil dated 21.08.1994 were the last testamentary disposition executed by Sardar Gyan Singh Vohra? OPR.”

15. Evidence on behalf of the Petitioners was completed on 21st August, 2010. Subsequently, an *I.A. 1574/2015* was filed by the Objector No. 1, seeking *inter alia*, permission for a Handwriting Expert to inspect the case file and take photographs, to provide an expert opinion on the signatures of Mr. Gyan Singh Vohra. Vide the said application, the Objector No. 1 claims that the Fourth Will dated 7th November, 1994, presented by the Petitioners, is forged and fabricated. The Objector submitted three original registered Wills (dated 29th February, 1992, 8th October, 1993, and 18th October, 1993) and a Codicil dated 21st August, 1994, along with personal diaries of the Testator, all kept in a sealed cover. According to the application, the Petitioners have not denied the signatures on these documents, but have raised certain objections. Thus, the Objector, in the said application sought that the handwriting expert be allowed to take photographs of the signatures on the Fourth Will dated 7th November, 1994 to compare them with the signatures on the other Wills, the Codicil, as well as the personal diary entries.

16. Vide order dated 9th December, 2015, the Id. Joint Registrar dismissed the said application. Importantly, the Id. Joint Registrar reasoned that there were no contemporary documents on record bearing the admitted signatures of the Testator. This order passed by the Id. Joint Registrar was carried in a chamber appeal bearing *O.A. No.19/2006*.

17. Vide order dated 19th January, 2016, a Id. Single Judge of this Court allowed the application, and it was held that there was no dispute between the



parties regarding the execution of the Third Will dated 18th October, 1993 by the Testator. The Petitioners admitted that the said Will was executed, although they claimed it was done under threat and subsequently cancelled by the Will dated 7th November, 1994. Thus, it was acceptable to use the admitted signatures on the Will dated 18th October, 1993 for comparison with the disputed signatures on the Fourth Will dated 7th November, 1994. This order was again challenged by the Petitioners before the Id. Division Bench in **FAO(OS) 45/2016**, wherein the appeal was disposed of on 24th July, 2017 in the following terms:

*“1. Mr. Ved Prakash Sharma and Ms. Renu Verma, Advocates, on instructions, state that they want to make a statement. Mr. Ved Prakash Sharma and Ms. Renu Verma, Advocates state that without prejudice to the rights and contentions of respondent Nos. 2 and 3, namely, Harveen Vohra, Divjeet Singh Vohra, Harpreet Vohra and Jitender Singh Vohra, they are not insisting on comparison of the purported signatures of late Sh. Gyan Singh Vohra in the Will dated 18.10.1993, with the alleged Will dated 7.11.1994. **Further, the said respondents do not accept or acknowledge that the Will dated 18.10.1993 has not been accepted/admitted by the appellants.** In case they are able to locate or find any other document with the signature of late Sh. Gyan Singh Vohra, which are admitted by the parties, they would move 1 an appropriate application for comparison in accordance with law.*

2. Learned counsel for the appellants having heard the statement made by the counsel for respondent Nos.2 and 3 submits that as per the said appellants, they have not accepted the Will dated 18.10.1993.

3. In view of the statement made by counsel for respondent Nos.2 and 3, this appeal has to be allowed and the impugned order dated 19.1.2016 is set aside.



However, setting aside of this order does not mean that the appellate court has made any comments on merits of the contentions raised with regard to the Will dated 18.10.1993 or whether or not the appellants have accepted the said Will. This issue is left open to be decided at appropriate stage.

4. The appeal is accordingly disposed of with no order as to costs.”

18. As per the above order, the Respondents herein agreed for the signatures not to be compared and would trace some other document which has admitted signatures of the Testator. If such document is found, they would move an application. However, no application in terms of the order of the Id. Division Bench came to be moved by the Respondents. The evidence on behalf of both parties was concluded on 9th August, 2018. Vide order dated 12th March, 2019, this Court recorded the submission on behalf of Id. Counsel Ms. Renu Verma, appearing for Objector No. 2, who stated that she did not wish to file written submissions, and would adopt the written submissions filed on behalf of Objector No. 1.

Written Statement(s) of the Objectors

19. In the written statement of Objector no.1, the present petition is claimed to be false and frivolous. The Fourth Will dated 7th November, 1994, alleged to be the last Will of the Testator is stated to be bogus and fabricated, as the Objector No. 1 maintains that the Testator never executed such a Will. As per the Objectors, the Testator initially made a registered Will on 29th February, 1992, giving life estate in the subject property to his wife, and stipulating that after her death, the ground floor of the subject property would be bequeathed to his elder son, Objector No. 1, and the first floor to his



younger son, Objector No. 2. The bank balance, jewellery, and other assets were to be given to his daughters and some to his daughter-in-law, Mrs. Harveen Vohra. After the sudden death of the Testator's wife on 19th September, 1993, the Testator changed the said First Will and made another registered Will on 18th October, 1993. Following his wife's death, the Petitioners and their husbands demanded a share of the estate, causing familial discord. According to the Objectors, the Petitioners and their husbands allegedly demanded half of the amount in the bank accounts, FDRs, gold/jewelry, and other assets, threatening to boycott the *bhog* ceremony, if their demands were not met. It is alleged by the Objectors that such behaviour deeply upset the Testator, leading to strained relationships between him and his daughters.

20. According to the Objectors, on 19th August, 1994, the Petitioners organized a separate first death anniversary ceremony for their mother, excluding the Testator and his sons from the announcement, which further humiliated him. Consequently, he wrote a Codicil on 21st August, 1994, detailing these events and expressing his displeasure with the Petitioners. The written statement claims that due to the behaviour of the Petitioners, the Testator decided to exclude them from his estate. The Will dated 7th November, 1994, propounded by the Petitioners is claimed to be false and fabricated.

21. It is argued that the Testator, being a respected Senior Advocate of the Delhi High Court with a 62-year career, continued working until he suffered a stroke on 17th January, 1995, leading to his death on 20th January, 1995. His work and legacy were honored with the suspension of work at the Delhi High Court as a mark of respect.



22. In his written statement, the Objector No. 2 has adopted the same position as Objector No. 1. According to the Objectors, the Testator was a strong-willed and active individual in his professional, social, and political circles. Objector No. 1 had a close relationship with the Testator, working and living with him. The Objector No. 2 stated that both the Testator and his wife regularly communicated with the Objector No. 2, who visited them frequently. It is further claimed by the Objector No. 2 that the Testator did not mention the Will dated 7th November, 1994, though he did share copies of other Wills/Codicils. The Objector No. 2 also mentioned that the property situated at 213, Sukhdev Vihar, New Delhi, had always been the personal property of Objector No.1.

Witnesses on behalf of the parties

23. The following witnesses have given evidence on behalf of the Petitioners:

- i. **PW-1: Mr. Shiv Nath Mehra** - One of the witnesses to the Fourth Will.
- ii. **PW-2: Mr. Tejinder Singh Rana** - One of the witnesses to the Fourth Will.
- iii. **PW-3: Mrs. Anita Juneja** - Petitioner No. 2.

24. Mr. Harish Malhotra and Mr. Pawan Bindra, Id. Senior Counsels, submitted that Mr. Anil Kapur, who was the third witness to the Fourth Will and had filed his evidence by way of an affidavit, passed away before his cross-examination could be recorded. Mr. Anil Kapur was the common witness in the Will dated 7th November, 1994 as well as to the Third Will dated 18th October, 1993. As per the Petitioners, Mr. Anil Kapur had deposed about the authenticity of the Fourth Will dated 7th November, 1994 by way of



his Affidavit in Evidence dated 27th February, 2006, however, the said Affidavit could not be tendered as he passed away on 2nd August, 2009.

25. On behalf of the Objectors, the following witnesses have provided evidence:

- i. **OW-1: Mr. Darshan Singh Vohra** - Brother of the Testator.
- ii. **OW-2: Mr. Ram Pershad Rohtagi** - Clerk of the Testator.
- iii. **OW-3: Mr. G.S. Bindra** - Relative of the Testator and witness to the Second Will dated 8th October, 1993 and Third Will dated 18th October, 1993.
- iv. **OW-4: Mr. Ishwar Chand Garg** - Advocate and attesting witness of the Third Will dated 18th October, 1993.
- v. **OW-5: Mrs. Harveen Vohra** - Wife of Mr. Manmohan Singh Vohra and daughter-in-law of the Testator.
- vi. **OW-6: Mr. Deeraj Kumar** - Official witness from the Sub-Registrar V-Mehrauli Delhi, to prove the registration of the Third Will.
- vii. **OW-7: Mr. Naveen Gandas** - Record lifter from the office of the Sub-Registrar, to prove the First Will.

C. Submissions of the parties

Submissions on behalf of the Petitioners

26. Mr. Harish Malhotra, Id. Senior Counsel, began his submissions by highlighting key evidence that supports the validity of the Testator's Will dated 7th November, 1994 and the strained family relationships involved. He refers to the oral evidence of the daughter-in-law, OW-5 Mrs. Harveen Vohra, to submit that she admitted the signatures of the Testator on the last Will dated



7th November, 1994. He emphasises that the evidence of this witness (OW-5) proves that the relationship between the Testator and his son, Mr. Manmohan Singh Vohra, was not on good terms. He submits that a separate apartment was constructed in the back portion of the Niti Bagh property, indicating the strained relationship between the parents and the son's family, further evidenced by maintenance of a separate kitchen. Reliance is placed on the cross-examination of OW-5 dated 20th January, 2015.

27. Mr. Malhotra also highlights that OW-5 tried to avoid identifying the signatures, and her demeanour was noted by the Id. Joint Registrar. The manner in which the evidence of OW-5 was recorded shows that when she admitted the signatures of the Testator on the last page of the Fourth Will, she was not in a confused state, although she tried to appear confused during the cross-examination.

28. He relies upon the evidence of OW-1 Mr. Darshan Singh Vohra, Testator's brother. The relevant portion of OW-1's oral evidence is extracted below:

"The kitchen of Sh. Gyan Singh Vohra was in the main house whereas the kitchen of Sh Manmohan Singh was earlier in the garage. The Kitchen of Sh. Gyan Singh was in the front of the entrance adjoining a big room. I don't remember as to how many garage were there but the kitchen earlier in the garage and thereafter Gyan Singh constructed two rooms at the back of the house where Manmohan Singh shifted his kitchen. A person is supposed to have excellent relations with another when he can talk about his troubles and business with him. Otherwise relations are normal. I used to talk with Gyan Singh Vohra as and when there was need and we used to share our joys and sorrows (Dukh- Sukh). As long as mother of Manmohan Singh was alive he was



given the two rooms in the rear portion of the house and after her death Gyan Singh Vohra shifted Manmohan Singh to the main house as he had to run his house.”

29. Mr. Harish Malhotra, Id. Senior Counsel, emphasizes the significance of OW-1's testimony in establishing the strained relationship between the Testator and Mr. Manmohan Singh's family. On the basis of the above deposition, he submits that the kitchen of Mr. Manmohan Singh's family was separated even before the construction of the rooms in the garage. This shows that the nature of the relationship between the Testator and Mr. Manmohan Singh's family was not cordial. This fact, having been deposed by the brother of the Testator (OW-1), lends credence to the statement in the Fourth Will that they had an unpleasant relationship. The said witness also confirms that the two families were being treated as separate.

30. Mr. Malhotra highlights the alleged tutoring of the witness by Mr. Manmohan Singh, casting doubt on the credibility of his testimony. Reliance is also placed upon the question relating to the Fourth Will dated 7th November, 1994 that the witness was clearly tutored and was only speaking in the manner he was asked to speak by the Objectors/Respondents. This is evident from the fact that he has seen the Will dated 7th November, 1994 and has stated that this was shown to him by Mr. Manmohan Singh. This was obviously prior to him giving evidence; therefore, it can be clearly inferred that he was told by Mr. Manmohan Singh of what he had to depose.

31. According to the Id. Senior Counsel, the Fourth Will reflects the genuine intentions. The subject Will is a document that has naturally recorded the current state of affairs concerning the Testator and his family. The reasons given in the Will are quite genuine. The Testator has expressed his anguish



relating to his son's family but has still not deprived his son or his family of some part of the estate. He has given the Sukhdev Vihar property, the law library, the Chamber in the High Court, and the Connaught Place office to his son, who is a practicing lawyer. He has also given the back portion of Niti Bagh, where his son and his family were residing so that they are not disturbed in any manner.

32. It is further submitted that OW-1's strained relationship with the Petitioners, supports the validity of the Fourth Will. The witness OW-1 in fact, also did not have good relations with his nieces i.e. the Testator's daughters, who are the Petitioners, as he did not even attend the marriages of the nieces. The argument that the Will is fictitious and the contents are false, is, therefore, bereft of any merit and is not made out.

33. Reliance is also placed upon the order 19th January, 2016 where the Respondents had sought by way of an application that the comparison of the Fourth Will ought to be made with the Will dated 18th October, 1993, which was permitted. This order was challenged by the Petitioners before the Id. Division Bench, which vide order dated 24th July, 2017 records that the Respondents do not press for the said comparison any more. Thus, the appeal was disposed of. The Id. Division Bench gave liberty to the Respondents to ask for comparison with any other document. However, till date, such a comparison has not been sought, which itself proves that the signature is genuine.

34. Mr. Malhotra, Id. Sr. Counsel further emphasizes the importance of Mr. Anil Kapur's affidavit and argues that Mr. Anil Kapur, who had also been a witness to the Third Will, had filed an affidavit stating that Fourth Will was signed by Mr. Vohra. Since he is a common feature between the two Wills,



though he could not depose orally and his evidence was not recorded, the affidavit ought to be taken into consideration.

35. Finally, it is submitted that only three tests have to be seen for proving the contents of a Will, which are:

- i. whether the Testator was of sound mind,
- ii. whether the signatures have been proved and,
- iii. whether there were any suspicious circumstances surround the execution of the Will.

36. In support of his submission, he relies upon the decision of the Supreme Court in *Sreedevi v. Jayaraj Shetty (AIR 2005 SC 780)*, wherein it was observed that the propounder of the Will ought to demonstrate that the Will was signed by the Testator, that he was at the relevant time in a sound disposing state of mind, that he understood the nature and effect of the dispositions, and that he signed the testament out of his own free will. Additionally, it must be shown that he signed it in the presence of two witnesses who attested in his presence and in the presence of each other.

37. The main plank of the Petitioners' argument is that the onus of proving the Will is on the person, who propounds the Will. However, the onus to prove that the Will is forged and fabricated is on the person, who alleges the same. It is the Petitioners' contention that the Respondents/Objectors have failed to prove that the signatures in the Fourth Will were forged or fabricated or that there was undue influence. In support of this proposition, he relied upon the following judgments.

- *Meenakshi Ammal (Dead) v. Chandrasekaran (2005) 1 SCC 280.*
- *Daulat Ram v. Sodha (2005) 1 SCC 40.*



Submissions on behalf of Objector No.1.

38. The first and foremost submission by Mr. Ved Prakash Sharma and Ms. Oberoi is that the Fourth Will dated 7th November, 1994 is a forged and fabricated document. It is submitted that the Testator was a highly accomplished Senior Advocate of this Court. The reputation of the Testator can be assessed by the fact that two of his colleagues became Senior Advocates and two became Judges of this High Court. Reliance is placed upon the following evidence given by the Clerk of the Testator, Mr. Ram Pershad Rohtagi (OW-2), where he states as under:

“Q. It is put to you that after the death of Sardar Gyan Singh Vohra, you joined Shri Arun Mohan, advocate and when somebody asked you that how you are working with him, I said that "kya main bhookha maroon". What have you to say?

Ans. It is incorrect. I never worked with Mr. Arun Mohan, Advocate.

Q. Would you tell the names of the advocate who worked with Gyan Singh Vohra and who later on became, either Senior Advocate or Hon'ble judge of the High Court?

Ans. Shri N.S.Sistani, Shri D.K.Aggarwal, Advocates became Senior Advocate and Mr. Rajender Sachhar and Mr. Girdhar Malviya, Advocates became the Judges of Hon'ble High Court. ”

39. Mr. Sharma, further submits that the Court clerk, Ram Pershad Rohtagi (OW-2) worked with the Testator from 1949 until his death and, therefore, had full knowledge of the Testator, including his personal and professional life. It is emphasized that one of the Testator's colleagues became the Chief Justice of the Delhi High Court and another colleague retired as one of the senior-most Judges of another High Court. According to the Id. Counsel, the



Testator was an extremely strong-willed person, a fact admitted by the Petitioners. He was a highly qualified individual with an M.A. in English and an LL.M, which is also admitted by the Petitioners. This is emphasized to show that the First, Second, and Third Wills, as well as the Codicil, were written in impeccable English. However, the Fourth Will contains several spelling and grammatical errors, which are highly unlikely for an accomplished person like the Testator.

40. Objections filed by Mr. Manmohan Singh Vohra and Mr. Jatinder Singh Vohra - the two sons of the Testator, are relied upon to show the stand of the said Objectors. It is urged that despite several opportunities being given to the Petitioners to file replies to these objections, the same were not forthcoming. Reference is made to orders dated 25th May, 1999, 21st September, 1999, 2nd May, 2000, 30th October, 2000, 9th March, 2001, 17th October, 2001 and 21st May, 2002. According to Mr. Sharma, facts pleaded in these objections therefore deserve to be deemed to be accepted in view of lack of any rebuttal by the Petitioners. Reliance is placed on the written statement(s) filed by the Objectors in the present petition.

41. The Objectors submit that the Fourth Will dated 7th November, 1994 is a fabricated document, as various purported facts stated within it are not supported by contemporaneous evidence. It is argued that the content of the said Fourth Will suggests it was created by the Petitioners. The language and several portions of this Will are uncharacteristic of the Testator, containing legal and grammatical errors. Firstly, terminology such as “*ashes cool down*” is not typical of the Testator. The circumstances narrated in the Will are not supported by evidence. According to the purported Fourth Will, 2/3rd of the Niti Bagh property has been bequeathed to the daughters, and 1/3rd has been



bequeathed to Mr. Jatinder Singh Vohra, with only the rear portion of the ground floor of the subject property bequeathed in favour of Mr. Manmohan Singh Vohra. Some palpable errors, including grammatical ones, are highlighted by way of a note. The following additional facts are emphasised:

- i. Bequest of Tenancy Rights: The bequest of tenancy rights in favor of the son-in-law is contrary to law, which the Testator was well aware of. Mr. Sharma, Id. Counsel argues that tenancy rights can only be given to the children, and in the Second and Third Wills, the tenancy is given to Ms. Anita Juneja, the daughter, which was valid in law. The bequest to the son-in-law being contrary to law indicates that this cannot be the Will of the Testator.
- ii. Lawyer's Chamber in DHC: The lawyer's chamber was already in the joint name of the Testator and his son, Mr. Manmohan Singh Vohra. No bequest was possible regarding the lawyer's chamber, which is merely an allotment by the High Court. The Testator was conscious of this fact, and in the earlier Wills, it is merely recorded that it is in joint name, with no bequests made.
- iii. Three Wills and Codicil: The three earlier Wills and the Codicil are now admitted by the Petitioners, though during evidence, their stand was that they were not valid. The Petitioners now argue that the purpose of the subject Fourth Will was to undo the Will of 18th October, 1993. The validity of the 1993 Will is evident from several circumstances:
 - a. The recital in the subject Fourth Will that everything has been bequeathed to Mr. Manmohan Singh Vohra and his wife is incorrect as per the Third Will.



- b. There are contradictions in the accounts of the Testator's ill treatment provided by the Petitioners.
- c. Three different versions of cruelty are decipherable from PW-3's statement at page 75, which conflicts with OW-5's evidence at page 217, where it is suggested that there was ill treatment after the death of the Testator's wife, with no suggestion of ill treatment prior to her death.

42. The further argument of the Objector No. 1 is that the affidavit of Ms. Anita Juneja is beyond pleadings, which was objected to during the evidence on 23rd September, 2009. Furthermore, evidence suggests that the Testator was tortured after executing the Will of 7th November, 1994, as stated by Ms. Anita Juneja. If this were true, the Testator would not have revealed the Will to Mr. Manmohan Singh Vohra, and hence, the allegation of ill treatment of the father has no standing. If Mr. Manmohan Singh Vohra had indeed indulged in ill treatment, the Testator could have had a further Will executed after 7th November, 1994 to undo the said Will. In conclusion, it is submitted that all the above facts show that the evidence is contrary to the execution of the Will dated 7th November, 1994. The entire Fourth Will itself is forged and fabricated.

43. On the nature of the relationship *inter-se* between the daughters, sons and the Testator, the foundation of the Petitioners' case is that the Fourth Will claims that the relationship between the Testator and his son, Mr. Manmohan Singh Vohra, was not good. It is urged by the Objectors that this fundamental premise, which forms the foundation of the petition, is wrong as is borne out from the evidence led in the case. Ld. Counsel submits that in all three Wills—dated 29th February, 1992, 8th October, 1993, and 18th October,



1993—the relationship is shown as extremely cordial and peaceful between the Testator and his son, including their respective families.

44. In support of this plea, Id. Counsel refers to the cross-examination of PW-3, Ms. Anita Juneja, one of the daughters of the Testator. Firstly, based on the content of the Will dated 29th February, 1992, it is argued that from the beginning, the Testator wanted to bequeath the Niti Bagh house to both his sons. The First Will clearly shows this intent without any doubt. A reading of the First Will indicates a completely cordial atmosphere within the family. The clear bequest in favour of the two sons is made: the ground floor of the Niti Bagh property to Mr. Manmohan Singh Vohra and the first floor to Mr. Jatinder Singh Vohra. The back portion where construction is made is also bequeathed to Mr. Manmohan Singh Vohra. Additionally, the First Will shows that the relationship between the Testator and his wife, Ms. Sushil Kaur Vohra, was also very cordial, as recognized in Clause 9 of the said Will.

45. Regarding the daughters, paragraph 14 of the First Will records that both daughters are well settled and that some cash left with his wife would be used for the daughters and granddaughters. Clause 10 and Clause 14 of the First Will expresses his affection towards his daughters and daughter-in-law, stating that from the rental income of the first floor of the Niti Bagh property, each daughter would receive Rs. 750 per month, as would the daughter-in-law. These facts indicate that the daughters were well settled. In support, the cross-examination of Mrs. Anita Juneja is referred to, showing that her brother-in-law, Mr. S. S. Chaddha, was the Chief Engineer of MCD and owned two flats in Lajpat Nagar. Similarly, Mr. Bhupinder Singh, husband of Ms. Anita Juneja, owned a 300 sq. yds home in Lajpat Nagar. These admitted facts reaffirm the statement in the First Will that the daughters



are well settled.

46. Finally, the cordial relationship between the Testator and son is unequivocally established when the Testator appoints his son as the executor of the First Will along with his wife. Thus, the allegation that the son indulged in ill-treatment, as alleged by Ms. Anita Juneja in her cross-examination at page 75, is contrary to the evidence on record.

47. Insofar as the property situated in Niti Bagh, Id. Sr. Counsel submits that the second argument by the Petitioners is that the two-room set in the Niti Bagh house at the rear portion was constructed due to the deterioration of the relationship between the parties. Mr. Sharma, Id. Counsel submits that Ms. Harveen Singh Vohra clearly explained in her affidavit that the reason for constructing the two-room set was due to their two children needing more space as they were growing up. She withstood cross-examination on this aspect as OW-5, repeatedly denying any other reason for moving out of the main house. She explained that the ground floor of the Niti Bagh property had three bedrooms: one for the parents, one for Mr. Manmohan Singh Vohra and his family, and one meant for Mr. Jatinder Singh Vohra, who lived in the US. When the children grew up, they needed more space, and when the daughters visited, they stayed in Mr. Jatinder Singh Vohra's room. Therefore, the accommodation was insufficient, especially since the first floor was rented out and the Testator wanted the rental income.

48. It is also submitted that the Petitioner's argument about a full kitchen in the rear portion, indicating separate kitchens, and therefore a lack of cordiality, is false. In her cross-examination, it is stated that the back portion of the subject property only had a pantry kitchen, not a full kitchen. This proves that there was no separation, but merely a need for more space.



49. Insofar as the property at Sukhdev Vihar is concerned, the Petitioners contend that the separate property purchased by the Testator for Mr. Manmohan Singh Vohra is not mentioned in any of the Wills, except the Fourth Will set up by the Petitioners. It is emphasized that the Sukhdev Vihar property was booked by Mr. Manmohan Singh in his own right and he took a loan for it. This is confirmed by PW-3 in cross-examination (page 86), stating that her father took a loan to construct the Niti Bagh property but denied knowledge about her brother taking a loan. It is submitted that the Sukhdev Vihar property was exclusively purchased by Mr. Manmohan Singh Vohra, not the Testator, as he availed of a loan facility for this purpose. Furthermore, the back and front portions of the property are fully interconnected. Thus, there was no need for the Testator to mention this property in his Will as the said property did not belong to the Testator.

50. In relation to the previous Second Will dated 8th October, 1993, 1d. Counsel argued that the death of the Testator's wife on 19th September, 1993 necessitated the new Will. According to this Will, the Niti Bagh house was bequeathed to both sons, which is natural. The only difference in the third Will was that the third storey was now given to both sons. Regarding cash, Clause 2 of the said Will distributed it between the younger son, the first daughter, and Ms. Vohra's children. The rented property was vested with Ms. Anita Juneja, the daughter, and the Connaught Place office was vested with Mr. Manmohan Singh Vohra. The library and chamber were given to Mr. Manmohan Singh Vohra, and both sons were made the executors. This shows that after the death of the Testator's wife, the clear intention was to vest the main Niti Bagh property with both sons, with no share to the daughters. This position continued in the Third Will dated 18th October 1993, which only



changed the bequest relating to cash but not of the house. Again, it is stressed that in all three Wills, the relationship within the Testator's family, particularly with his son- Manmohan Singh Vohra, is shown as extremely cordial and peaceful.

51. The Codicil dated 21st August, 1994 is crucial as it clearly records the complete disinheritance of the daughters due to the Testator's anguish over their behaviour. Mr. Sharma, Id. Counsel emphasized that this holographic Codicil, written by the Testator, must be given significant importance. It made clear that both daughters would receive nothing from the Testator's estate, both movable and immovable, due to their and their husbands' behaviour after the Testator's wife's death.

52. Regarding the Fourth Will, Mr. Sharma, Id. Counsel submits that this Will, propounded by the Petitioners, incorrectly states that Mr. Manmohan Singh and his family were on bad terms with the Testator. All previous Wills favoured the sons concerning the house, and only in the final, unregistered Will, is the property given to the daughters. This Will is not written by the Testator and contains factual inaccuracies, indicating it was fabricated by someone unaware of the Third Will's execution.

53. Mr. Sharma further highlighted the continuous misbehaviour by the daughters, which was intolerable to the Testator. Instances of misbehaviour include demands by the daughters and their husbands on the day before the *Bhog* ceremony on 25th September, 1993, and their absence after the *Paath* and *Bhog* ceremony. The Testator distanced himself from them, even not attending the first grandson's wedding i.e., the eldest son of Amrit Kaur on 5th December, 1993, proved by testimonies of Mr. G.S. Bindra (OW-3) and Mr. Darshan S. Vohra (OW-1). The daughters held a separate *Varina* ceremony,



further humiliating the Testator. The Testator wrote a Codicil on 21st August 1994, reflecting his emotions and disinheriting the daughters.

54. Mr. Sharma relied on the oral evidence given by Mr. Ram Pershad Rohtagi (OW-2), the Testator's clerk for almost 50 years, supporting the Codicil's genuineness. According to Id. Counsel, there is contemporaneous evidence to show that the Codicil is a genuine codicil as the Testator sent a copy of the same to the son Mr. Jatinder Singh who wrote about the Codicil in his letter dated 31st August, 1994. In fact, he sent the original Codicil to Mr. Jatinder Singh. The content of the letter dated 31st August, 1994 shows that the said son expresses his pain and anguish towards his own sisters, the conduct of the sisters and their husbands. It also shows the manner in which there were no misunderstandings between the two brothers and their families. Family ties and the good relationship between the Testator and the two sons and their families is fully reflected in this letter. In fact, this letter is relied upon the Petitioners in the written submissions to allege that there has been pressure and undue influence on the Testator. According to Mr. Sharma, Id. Counsel the said letter proves the contrary.

55. Thereafter, reference is made to the contemporaneous diary written by the Testator, wherein the entry made on 13th January, 1994, fully captures the fact of the Third Will having been made and registered. Subsequently, the Testator also wrote that he had appended a change to the Third Will, which was signed and witnessed, and he provided the reason for depriving his daughters of any assets, stating that they had misbehaved with him. In the diary, the mention of the Third Will dated 18th October, 1993 is made on two occasions. These facts go to prove that contemporaneously, the Third Will and the Codicil are sufficiently established.



56. Moreover, non-mention of any other Will is also proven by the diary, according to Mr. Sharma, Id. Counsel, as there are entries about income tax payments in October 1994 and certain advance tax payments in December 1994; however, there is no mention of the Petitioners' Will dated 7th November, 1994. Since the Testator was in the habit of mentioning his Wills or making a note in the manner he did for the Third Will, the lack of contemporaneous evidence for the Fourth Will dated 7th November, 1994 goes against the Petitioners. Further, it is submitted that the bequest in the Fourth Will, leaving only the rear portion of the Niti Bagh property to Mr. Manmohan Singh, itself shows that it is not genuine, as the Testator had consistently given the main share to Mr. Manmohan Singh Vohra. Ms. Juneja confirms that the diary is in the handwriting of the Testator, though she is not sure of its genuineness.

57. The next submission is that Ms. Anita Juneja's affidavit is beyond the pleadings and hence cannot be taken into consideration as the Petitioners failed to file any replies to the objections filed by the Respondents. The allegation that Mr. Manmohan Singh Vohra misguided the Testator is also not proven by Ms. Juneja's evidence. Ms. Juneja also confirms that the relationship between Mr. Jatinder Singh and the Testator was good.

58. Reference is made to *I.A. 1574/2014*, where the Respondents sought comparison of the signatures of the Testator on various Wills with an admitted document where the signatures were accepted. This application travelled to the Id. Division Bench, which, by order dated 24th July 2017, permitted the Respondents to compare it with a document where the signatures were admitted by the parties. However, by this time, so much time had elapsed that it was very difficult to find an admitted document acceptable



to the Petitioners. Therefore, the Respondents did not proceed with the comparison of the signatures by an expert.

59. Reference is then made to the evidence of Ms. Harveen Vohra, the daughter-in-law, where it is argued that the Petitioners tried to highlight that she admitted the signatures of the Testator in her deposition on the last page. Mr. Sharma, Id. Counsel, submits that this witness clearly stated that it is a forged Will and, therefore, the said Will cannot be considered as an admitted Will by the witness.

60. It is then highlighted that one common witness to the Third Will and the Fourth Will set up by the Petitioners is Mr. Anil Kapur. He had filed the affidavit in evidence; however, his cross-examination was not conducted, and according to the Petitioners, he passed away before his turn for giving evidence came. The Respondents' stand is that Mr. Anil Kapur, being the star witness, should have been produced earlier. The evidence of PW-1 and PW-2 took place between 27th August, 2007 and 21st July, 2008, during which period Mr. Kapur was alive, but no steps were taken to produce him. It is also argued that Mr. Anil Kapur knew the Testator due to a stray case but was never a client. He was close to Mr. Bhupinder Singh, the husband of Ms. Anita Juneja. Mr. Kapur used Mr. Bhupinder Singh's chamber in Tis Hazari, indicating that he may have been influenced by Mr. Bhupinder Singh to set up a forged and fabricated document. Mr. Kapur passed away on 2nd August, 2009, and the Petitioners chose not to produce him for cross-examination. Thus, his evidence would not be of any value.

61. Regarding the evidence of Mr. Shiv Nath Mehra (PW-1) and Mr. T.S. Rana (PW-2), they have given evidence in favour of the Petitioners, but the main star witness was not produced and was held back. According to Mr.



Sharma, ld. Counsel this leads to the presumption and inference that the Petitioners intentionally withheld Mr. Anil Kapur from deposing.

62. Insofar as the submission concerning suspicious circumstances is concerned, it is submitted that the Petitioners failed to prove that the Third Will was executed as a result of cruelty. There is no evidence to show that there was any pressure on the Testator while executing the said Will. The Respondents have shown that the Third Will is valid, followed by the Codicil, the letter from the younger son, and the Testator's diary (as exhibited). However, the allegation that the Testator was forced to write a new Will when there are old Wills is not borne out. The Will dated 7th November, 1994 does not mention the Codicil, pointing to the doubtful nature of the said Will. Further, it is argued that no witness has independently testified to any cruelty or misbehaviour by Mr. Manmohan Singh Vohra or his family. Mr. Sharma then analysed the evidence of the following witnesses:

- i. OW-1 Mr. Darshan Singh Vohra: Reliance is placed on paragraphs 7 to 12 show that the Testator had good relations with Mr. Manmohan Singh Vohra. He has not been cross-examined on these aspects.
- ii. OW-2 Mr. Ram Pershad Rohtagi: A clerk for 49 years and attesting witness to the First, Second Wills and the codicil. At page 240 of the cross-examination, he answers the question as to whether there was any forceful execution of these Wills.
- iii. OW-3 Mr. G.S. Bindra: A relative of the Testator. The Testator's wife was the cousin of Mr. G.S. Bindra, and he clearly testified that the Testator had cordial relations with Manmohan Singh Vohra, his son. The witness also testified that the suggestion by the Petitioners that the Wills were obtained forcibly has been denied.



- iv. OW-4 Mr. I.C. Garg: A witness to the Third Will dated 18th October, 1993, who confirmed witnessing the same.
 - v. OW-5 Mrs. Harveen Vohra: In the cross-examination of Mrs. Harveen Vohra, ill-treatment after the Testator's wife death was not suggested. At page 217, she specifically denied ill-treating the Testator after the mother-in-law's death. This suggestion by the Petitioners is contrary to the testimony of Mrs. Anita Juneja, who stated that cruelty by Mr. Manmohan Singh Vohra and Mrs. Harveen Vohra towards the in-laws began in 1980. The cross-examination also does not challenge that the *Varina* ceremony was boycotted by the entire family. Mrs. Harveen Vohra also explained the circumstances surrounding the Hindustan publication, which was not cross-examined.
 - vi. PW-1 Mr. Shiv Nath Mehra: He has been cross-examined and denied that Mr. G.S. Vohra was a lawyer in any revision petition. He admitted being a client of Mr. Bhupinder Singh.
 - vii. PW-2 Mr. T.S. Rana: Also admitted being a client of Mr. Bhupinder Singh. His testimony lacks credibility because he was an accused in a criminal case, and a person of the Testator's stature would never have used him as an attesting witness.
63. In conclusion, Id. Counsel Mr. Sharma submitted that for 28 years, litigation has continued between the parties, involving the entire family in this bogus litigation. Thus, action under Section 209 of the Indian Penal Code deserves to be taken, and the petition deserves to be dismissed with compensatory costs.



Rejoinder submissions for the Petitioners

64. Mr. Malhotra, Id. Sr. Counsel, began his rejoinder submissions by taking the Court through the First Will dated 29th February, 1992, to show that it is incorrect to state that there is no bequest to the daughters. The First Will specifically refers in paragraph 14 that the Testator had love and affection for his daughters.

65. Regarding the Second Will dated 8th October 1993, executed after the Testator's wife's death on 19th September, 1993, Mr. Malhotra pointed out that the Testator had many Wills, including unregistered ones. Therefore, it was not unusual for the Testator to write and preserve unregistered Wills. Even in the Second Will, the love for the daughters after the wife's passing is evident as he bequeaths cash to them. The Third Will also does not disinherit the daughters. The property situated at 69, Darya Ganj was also given to Mr. Bhupinder Singh.

66. Regarding the Codicil, Mr. Malhotra, Id. Sr. Counsel submitted that there is nothing extremely wrong with the publication dated 18th August, 1994 in the Hindustan Times. Even if it is presumed that the Testator had some annoyance with his daughters, it would only be momentary. This would not have prevented the execution of a fresh Will dated 7th November, 1994. Parents usually forgive and ignore their children's mistakes. Therefore, when he executed the Fourth Will dated 7th November, 1994, there was no disinheritance of any of the children, including Mr. Manmohan Singh Vohra, who was given his entire portion at the rear of the Niti Bagh property. The remaining property was divided equally among the other children. This is because the Testator was aware that Mr. Manmohan Singh Vohra had a house in Sukhdev Vihar and Mr. Jatinder Singh Vohra was abroad. The bequest in



the Fourth Will, for which letters of administration are sought, is nothing unnatural. The Testator's anguish alone cannot justify the argument that the Will dated 7th November, 1994 is fabricated.

67. Mr. Malhotra then referred to the evidence of Mr. Darshan Singh Vohra (OW-1), who confirmed that the mezzanine of the Niti Bagh property had been given to Mr. Bhupinder Singh, proving that the Will set up by the Petitioners is not fabricated and is corroborated independently by Mr. Darshan Singh Vohra (OW-1).

68. Regarding the Respondents' claim that the family's growing needs necessitated the construction of the rear portion, there is no explanation for why the room in the main house was not used by Mr. Manmohan Singh Vohra. Even if they shifted their rooms to the rear of the house, the fact that they had a separate kitchen was perceived by all family members as indicating two separate families. This is clear from pages 15 and 16 of Mr. Darshan Singh Vohra's (OW-1) testimony.

69. Even in the Fourth Will put forward by the Petitioners, the Testator did not disinherit Mr. Manmohan Singh Vohra. Since there was no issue regarding the Sukhdev Vihar property in the other three Wills, it cannot be said that the Testator was unaware of it. The Fourth Will clearly states that Mr. Manmohan Singh Vohra has the Sukhdev Vihar property, and therefore, the Testator naturally changed his mind. Mr. Malhotra emphasized that the love for the daughters could not have been deprived due to just one incident.

70. Other arguments were raised claiming that the witnesses were cross-examined by Mr. Manmohan Singh Vohra and not by Mr. Jatinder Singh Vohra. On this point, Ms. Renu Verma, Id. Counsel, submits that Mr.



Jatinder Singh Vohra adopted the objections of Objector No. 1 as recorded in the order dated 9th August, 2018.

71. Mr. Malhotra also highlighted that on page 128, the Court Clerk of the Testator admitted that the Testator attended the *Paath* organized by the daughters but later sought to resile from it.

72. In conclusion, Mr. Malhotra submitted that if the execution of the Fourth Will is admitted and the distribution is almost equal in the Fourth Will, there can be nothing suspicious about the Will.

Concluding Submissions of the Objectors.

73. Mr. V.P. Sharma, Id. Counsel, concluded his submissions by rebutting that the incident in September 1993 is clearly mentioned in the Codicil, if not in the Wills, and the Codicil cannot be ignored. The testimony of Mr. D.S. Vohra, relied upon by the Petitioners, stating that Mr. D.S. Vohra was shown the Will by Mr. Manmohan Singh Vohra on 7th November, is incorrect, as Mrs. Anita Juneja admitted in her testimony on 21st August 2010 that the said Will was handed over only on 14th November, 1994. Id. Counsel for the Respondents relied upon the following decisions in support of various propositions:

- i) ***Mohan Madan v. Smt. Sheel Gulati (2016 V AD Delhi 249)***: If the replication is not filed with the written statement, the contents of the written statements are deemed to be admitted. In the present case, objections have not been relied to by the Petitioners despite repeated opportunities. Hence the contents of the objections should be taken as admitted.



- ii) *Srinivas Raghavendra Desai v. V. Kumar Vamanrao (2024 3 SCALE 383)*: No evidence can be led beyond pleadings. Mrs. Anita Juneja has given her affidavit which is beyond pleadings and objections have been taken at page 52 in the cross examination.
- iii) *Muddasani Venkata Narsaiah v. Muddasani Sarojana (AIR 2016 SC 2250)*: If there is no cross examination on any aspect, the evidence should be taken to be admitted.

D. Analysis and Findings

74. The primary issue in this petition revolves around the authenticity of the Fourth Will propounded by the Petitioners and purportedly executed by the Testator. The Testator being a renowned Senior Advocate, having substantial practice, had an understanding of the nuances of the law, and is expected to have had clarity in the manner in which he wanted his estate to be inherited. But despite all his expertise in the law, clearly a reading of the various testamentary documents placed on record also shows that there was considerable emotional upheaval that he went through during the process of drawing up his Wills, may be due to the personal ups and downs he was facing in his life, with his wife's demise, friction with children and their families. The three Wills and the Codicil are one set of documents. During oral submissions, the execution of the first three Wills and the Codicil is not disputed by the Petitioners but the Petitioners' stand is that the Fourth Will superseded all the other Wills. The Petitioners have propounded the Will dated 7th November, 1994, while the Objectors challenge its authenticity, alleging it to be forged and fabricated. The duty cast upon the Court is to decipher the true intention of the Testator.



75. Detailed arguments have been made on several aspects, including the Testator's state of mind, the reliability of the purported Wills with his known habits and relationships, and the presence of any suspicious circumstances surrounding the execution of the final Will. Arguments were also made on the Testator's mental state and the influence of family relations at the time of the Fourth Will's execution. All the issues are relevant to decide whether the Petitioners ought to be granted letters of administration to the Fourth Will propounded by them. In a probate case, the duty of the Court while appreciating the evidence of the witnesses is to carefully analyse and scan the evidence and cross examination and to evaluate the same in its entirety¹. In this process the Court has to carefully evaluate the evidence presented to prove the execution of a Will, particularly considering the witnesses called by the propounder, as also the challenges raised to the Will. Additionally, inconsistencies in witness statements, contradictions between different testimonies, vague and evasive answers, and challenges to the proof and admissibility of documents are all critical factors the Court ought to consider when making a decision. These factors collectively influence the Court's determination of the Will's validity and the authenticity of the facts presented in the case². Hence, an examination of the oral evidence given by the witnesses is of utmost importance.

Analysis of the evidence given behalf of the Petitioners

76. In the present petition, the witnesses who have deposed on behalf of the Petitioners are:

¹ *Shibani Sadhuhan v. Anil Sadhukhan* MANU/WB/0891/2010.

² Anupam Srivastava & Monika Srivastava, 'Law of Wills Decoded' (Bloomsbury 2021) pp. 80-81.



76.1 PW-1 Mr. Shiv Nath Mehra, Attesting Witness to the Fourth Will

- PW-1 identified the Will dated 7th November, 1994. He also identified his signatures and the signatures of Mr. Tejinder Singh Rana and Mr. Anil Kapur as the attesting witnesses. He stated that he was a client of Mr. Bhupinder Singh, husband of the Petitioner No. 2-Anita Juneja, and consulted the Testator on some legal matters, but the Testator never appeared for him as a lawyer. He admitted that Mr. Bhupinder Singh appeared for him in various matters.
- As to the execution of the subject Will, he stated that on 7th November, 1994, he was telephonically informed by Mr. Bhupinder Singh that the Testator had called him to his chamber. He arrived between 11 am to 12 pm. When he arrived, Mr. Tejinder Singh Rana was also present. He stated that the Will was already prepared, and upon his arrival, the Testator signed the Will in his presence as well as in the presence of Mr. Rana and Mr. Anil Kapur. He confirmed that the Will was already drafted when he arrived. He knew Mr. Rana as another client of Mr. Bhupinder Singh, having met him about 6 to 7 times. Mr. Anil Kapur arrived after him, and everyone signed the Will in the chamber. Mr. Anil Kapur shared his chamber with Mr. Bhupinder Singh in Tis Hazari Courts. He mentioned that he stayed in the chamber for half an hour when the Testator signed the Will. He described the layout of the Testator's chamber and claimed that on the said date, except for himself, the two other witnesses, and the Testator, no one else was present.
- However, he could not narrate any incident where the Testator had discussed his personal difficulties with him. In his evidence, he stated



that the Testator was in full senses and of sound disposing state of mind. During cross-examination, he confirmed that the Will was drafted by Mr. Bhupinder Singh.

76.2 **PW-2 Mr. Tejinder Singh Rana, Attesting Witness to the Fourth Will**

- PW-2 – Mr. Rana claimed that he was an active worker in Sikh politics related to Gurudwara activities and frequently visited the Testator's chambers for such activities. He stated that he was called by the Testator, who executed the Fourth Will in his presence and in the presence of Mr. Anil Kapur and Mr. Shiv Nath Mehra. He confirmed that the Testator was in full senses and of sound disposing state of mind. His affidavit in evidence was similar to that of PW-1.
- During cross-examination, he revealed that he came into contact with the Testator after his factory was destroyed during the 1984 riots, where he made electronic goods in the Wazirpur Industrial area. The Testator was a member of the *Prabandhak* Committee and was acquainted with all its members. He claimed that the Testator advised him on some issues but not in obtaining compensation, and he was not the witness's lawyer. When the witness wanted to engage the Testator as his lawyer, the Testator referred him to his son-in-law, Mr. Bhupinder Singh.
- He also confirmed that his brother-in-law (wife's brother), Chaudhary Amarjeet Singh, practices before the District Courts. He could not provide details of the number of visits he made to the Testator's chamber. He stated that when he visited the Testator's chamber, the Testator's son or his clerk was sometimes present.



- He mentioned that he was once arrested in connection with some financial cases relating to his family. One of the charges alleged against him was the offence of rape, but the case was dismissed. The allegations were made by an Indian lady living abroad.
- On the date of the Will's execution, he claimed he was called to Chamber No. 31 of the High Court and knew Mr. Shiv Nath Mehra, who also visited Mr. Bhupinder Singh's chamber. He reached around 10:30 am, having been called by the Testator. The Testator informed him that he had already drafted a Will, which was typed and written in three to four pages. The other witnesses were present in the chamber along with the Testator.
- He did not remember the specific week or day he visited the Testator's chamber. He claimed that the Testator signed first, followed by his own signature, Mr. Anil Kapur, and lastly, Mr. Shiv Nath Mehra. The entire procedure of reading and signing took about one and a half hours.
- He stated that Mr. Bhupinder Singh was his lawyer in many cases against him and that he was in prison for two weeks. He claimed the Testator told him he was being ill-treated by his son. He did not attend the Testator's wife's cremation or the *bhog* ceremony at the Gurudwara. When asked who was present at the *bhog* ceremony, he could not name anyone as he arrived late and sat at the rear.

76.3 PW-3 Smt. Anita Juneja, daughter of the Testator as also the wife of Bhupinder Singh

- PW-3 identified her father's signature on the Fourth Will dated 7th November, 1994. She claimed that her father had informed her of the execution of the Fourth Will. She made serious allegations against her



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brother, Manmohan Singh Vohra, and his wife, Smt. Harveen Kaur Vohra, stating that they used to ill-treat and torture the Testator and his wife, i.e., her parents. She further stated that after the death of her mother on 19th September, 1993, her brother and sister-in-law forced their father to execute the Third Will dated 18th October, 1993 in their favor under threats. She also claimed that upon acquiring knowledge of the execution of Fourth Will by their father, her brother and sister-in-law threatened and misbehaved with the Testator. They also did not permit their father to visit the houses of his two daughters.

- She stated that her brother and his wife are highly greedy persons who have their own house in Sukhdev Vihar, where they receive a monthly rent of Rs. 1 lakh. Additionally, they have let out the rear portion of the Niti Bagh house for Rs. 50,000/- per month. Despite this, her brother intends to grab the Niti Bagh house. She also claimed that her brother, Manmohan Singh Vohra, had strained relations with their other brother, Jatinder Singh Vohra, and his wife, Smt. Neelu. They are not on speaking terms with each other. In fact, Jatinder Singh Vohra came to India in 2005 but she never met or visited her brother.
- According to her, the elder brother misguided the younger brother to contest the subject Fourth Will, for which letters of administration are being sought. However, after coming to know of the true conduct of Manmohan Singh Vohra, the younger brother abstained from appearing in Court and decided not to contest the case.
- Both brothers, according to her, are not on speaking terms. After their father's death, the elder brother and his wife did not permit the



daughters and the other brother to enter the Niti Bagh house, which they occupied. She asserted that the objections are frivolous.

- She sought to establish the credibility of her husband, Mr. Bhupinder Singh, by stating that he was a Central Government Standing Counsel. As for her brother-in-law, he was a Chief Engineer in the MCD and retired from there. Both of them enjoyed good social status. She expressed enormous frustration towards her brother- Manmohan Singh Vohra, stating that he never spent any money on the construction of the Niti Bagh house.
- She also claimed that the Third Will and the Codicil have not been placed on record. The incident of the sons-in-law creating a scene at the time of death of the mother is false and concocted. No demand for money or the FDRs were made by the daughters. No FDRs or jewellery have been given to the Petitioners. The daughters, the sons-in-law and all other relatives attended the last rites of the Testator.
- During the lifetime of the mother, Mr. Manmohan Singh Vohra and his wife had a separate kitchen. They were also financially dependent on the father and that is the reason why the separate portion was built for them at the back of the residence. She claimed that the brother did not have any practice and even the house at Sukhdev Vihar was built by the father as he was one of the leading lawyers of the Delhi High Court. She stated that the Fourth Will is genuine and the objections are frivolous.
- During her cross-examination, PW-3 confirmed her father's educational qualifications, stating that he was a Senior Advocate with a dominating nature, and was in practice until 2 to 3 days before his



death. She mentioned that he fell ill on 17th January, 1995, and was also the President of the Delhi Sikh Gurudwara *Prabandhak* Committee for five years.

- PW-3 claimed to know Mr. Tejinder Singh Rana for more than 10 years, with her husband knowing him for over 15 years, and confirmed that her husband was the lawyer for Mr. Tejinder Singh Rana. She stated she was unaware of any criminal cases against Mr. Rana. She was aware of Mr. Shiv Nath Mehra being her husband's client but not the period since she knew him. PW-3 confirmed that both witnesses were not clients of her father, though he may have advised them occasionally. This position changed during her statement, as she appeared confused about whether the witnesses to the Will were given legal advice by her father.
- PW-3 was also unaware of the actual relationship between Anil Kapur and her father, though she mentioned it was a close relationship and that her father handled some litigations related to Anil Kapur's relatives. He had good relations with her husband, Bhupinder Singh, denying that he sat in the Connaught Place office of Anil Kapur. She was also unaware of when Anil Kapur started using her husband's chamber in Tis Hazari Courts.
- She stated that her father had created a firm by the name of G.S. Vohra & Company in which her brother Manmohan Singh Vohra was inducted as a partner. She confirmed that sometimes her father and brother used to go together to the Court and come back together. Her father and her brother used to share the office in Connaught Place. She confirmed that her brother and sister-in-law used to stay with her



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mother when she was in hospital for 5 to 6 days, with both sisters also taking duties at the hospital. She confirmed that the last rites of the mother were performed by Mr. Manmohan Singh Vohra.

- PW-3 confirmed that her sister Smt. Amrit Kaur married Mr. S.S. Chadha, who had two flats in Lajpat Nagar. Her husband owned another house in Lajpat Nagar, which has two and a half stories on a 300 Sq. Yards plot, generating rental income.
- She stated that Darshan Singh Vohra, the Testator's brother had strained relations with the Testator. The reason for the same was that there was some acrimony during the divorce proceedings of Manmohan Singh with his first wife and the family had felt that Darshan Singh Vohra had got mixed up with the family of the first wife of Manmohan Singh Vohra. She gave various instances to support that her uncle Mr. Darshan Singh Vohra did not have good relations with her father and that he also misappropriated the property of the second uncle who was specially-abled. According to her, the Testator did not allow Darshan Singh Vohra to visit the Niti Bagh house as both her parents did not like him. She stated that the other uncle, Sardar Harbans Singh, who was specially-abled, lived with her father. There were some disputes between the Testator and Darshan Singh Vohra with regards to Daryaganj shop, which was under the tenancy of Harbans Singh. She knew Mr. Ram Pershad Rohtagi, the Court clerk of her father.
- As to how she derived knowledge of the Third Will, she stated that her father had informed her that Manmohan Singh Vohra and his wife used to ill-treat and harass him and had taken his signatures on several blank papers. She claimed that her father informed her that on 7th November,



1994, he would be cancelling all the previous papers and executing a fresh Will. She stated that her father came to her house and handed over the Fourth Will to her and her sister. She derived her knowledge of Third Will from the written statement of Manmohan Singh Vohra. When specifically asked as to when her father informed her that his signatures were taken on blank papers, she answered that her father had informed her over the telephone that her brother and sister-in-law used to ill-treat and torture him and, in fact, even manhandled him once. Though she did not remember the exact date and time, she initially said that her father had informed her of this ill-treatment prior to her mother's death and later said that he informed her between 1980 and 1995. She stated that her father used to warn his son, Manmohan Singh Vohra, and his daughter-in-law.

- She claimed to have no knowledge of the First Will dated 29th February, 1992. She again reiterated that Manmohan Singh Vohra had obtained his father's signature many times, but finally in the last Will, he had cancelled all the earlier Wills. She also claimed to have no knowledge when the Third Will dated 18th October, 1993 was executed. She had denied any knowledge about the said First and Second Wills. She only stated that her father gave her the final Fourth Will. She denied any suggestion that after the death of her mother, her husband and Mr. S.S. Chadha had demanded ½ share of the bank balance, FDRs, Gold and jewellery. She stated that they could not have imagined seeking such share during the lifetime of the father. She denied the suggestion that she and her husband did not attend the *bhog* ceremony.



- One of the reasons for quarrel was that her brother Mr. Manmohan Singh had entered the front portion of the family house and started living there. She also stated that Mr. Manmohan Singh and his wife had taken out various papers, documents and valuables from her father's cupboard. She denied that her father had given consent to Mr. Manmohan Singh's family to shift to the front portion. A sum of Rs.10,000/- was given at the Niti Bagh house after the *bhog* ceremony as is the custom for paying some money to the daughters. The Testator never boycotted the families of the daughters. She claimed that her father visited her and also used to speak on the telephone.
- On the suggestion as to whether the father attended the wedding of her sister's son, she stated that he had attended but did not have any pictures to prove the same. When asked to show proof of her father attending the wedding of Smt. Amrit Kaur's son, PW-3 claimed the album was misplaced.
- She also denied the suggestion that the first death anniversary of the mother on 14th August, 1994, which was conducted at Niti Bagh house, was not attended by her and her sister as also their families. She claimed that the publication for the *bhog* ceremony, which was published on 18th August, 1994 in Hindustan Times, was given under the advice of her father. The same was consented to by her father. Confronted with the Testator's diary, she confirmed the writings were her father's and claimed that the Third Will and the Codicil were forged and fabricated documents. She refused to comment on the genuineness of the handwritten Codicil by the Testator, denying any knowledge of the Codicil or the Will.



- On being asked as to whether the Testator or her uncle, brother and other relatives participated in the *bhog* ceremony conducted on 19th August, 1994 by the two daughters, she answered that the said *bhog* ceremony was held at Shahji Gurudwara, which was being visited by her mother while she was alive. Since the *bhog* ceremony on 19th August, 1994 was from 5:00 am to 9:00 am, the Testator could not attend. Mr. Manmohan Singh was not invited to that *bhog* ceremony. She denied the suggestion that the Sukhdev Vihar property was her brother's own, claiming he lacked sufficient income and was dependent on her father. The property was built to generate rental income. She denied knowing about a loan from LIC for constructing the plot, though aware of her father's loan from Punjab & Sind Bank to build the Niti Bagh house.
- She confirmed that Mr. Jatinder Singh Vohra was an US citizen and was residing there with his wife and children. She stated that her other brother Mr. Jatinder Singh used to be in touch with parents and her sister, and that he used to even write letters sometimes, but mostly in recent times, there was telephonic communication.
- She stated that she cannot identify the signatures of her brother Mr. Jatinder Singh Vohra. Three letters were shown to her, which she claimed that she was not sure that the same were signed by Mr. Jatinder Singh Vohra. She again reaffirmed that Mr. Jatinder Singh Vohra filed objections as he was given the wrong picture by the other brother and thereafter, he withdrew objections and instructed the lawyer not to appear.



- She stated that the Fourth Will was provided to her and her sister at her residence on or around 13/14th November, 1994 at around 3:00 pm. She denied any participation in the preparation of the Will. She denied the allegations of fabrication of the Will. She agreed that she was not aware of the Codicil dated 21st August, 1994, when a suggestion was put to her that it was due to this lack of knowledge that the said Codicil was not dealt with in the fabricated Will. The relevant portion of her evidence is extracted below:

*"It is incorrect to suggest that Will Ex. P-1 has been forged and fabricated by me, my sister, our two husbands in collusion with Mr. T.S.Rana, Mr. Anil Kapur and Mr. Shiv Nath Mehra to grab the properties of Sardar Gyan Singh Vohra. **It is correct that I was not aware of the codicil dated 21.08.1994 by Sardar Gyan Singh Vohra before the filing of objections by Manmohan Singh Vohra and Jatinder Singh Vohra. Volunteered, the said codicil is forged and fabricated as stated by me before.***

Q. It is suggested to you that therefore, you, your sister and your husbands did not deal with this codicil in your forged and fabricated Will dated 07.11.1994. What have you to say?

Ans. I have already answered before. When my father handed over the Will dated 07.11.1994 to me, he told that whatever papers got signed by Manmohan Singh and his wife, he had cancelled all the said papers and that now, he has prepared this Will dated 07.11.1994 which is signed by the witnesses and he asked me to keep the same in safe custody."

- She claimed that the rent of the first floor of the property in Niti Bagh was being received by her sister-in-law Mrs. Harleen Vohra. She



claimed that Jatinder Singh Vohra was not even invited to the wedding of daughter of Manmohan Singh Vohra. She confirmed knowledge of some tenants on the 4th Floor but was unaware of the rental deposits' specifics.

Analysis of the evidence given behalf of the Objectors

77. The witnesses who have deposed on behalf of the Objectors are:

77.1 OW-1 Mr. Darshan Singh Vohra, the brother of the Testator

- In his evidence OW-1 stated that he had best of relations with his brother, the Testator. His shop and the Testator's office were in the same building i.e., '**17, Netaji Subhash Marg, Daryaganj**'. As per him, the Testator as a President of the Delhi Sikh Management Committee was instrumental in establishing Khalsa College DU, other Sikh Community Colleges, public schools and various historical Gurudwaras during his time. He stated that the Testator had a high reputation and was a leading citizen in Delhi. Both his daughters were married and his son Mr. Jatinder Singh Vohra went to the US. He was living with his elder son Mr. Manmohan Singh Vohra with whom he had a common office. There were other juniors with them whose names are mentioned in his affidavit. He was also a part time lecturer in law and examined papers for Punjab University and Delhi University.
- OW-1 stated that though Mr. Manmohan Singh Vohra was living in Niti Bagh, initially in one room, due to the expansion of the family and inadequate space, the rear portion of the house was built, and the families had separate kitchens and entrances. He claimed that the Testator and his son had a good relationship and that his brother never



complained of any ill treatment by his son. Mr. Manmohan Singh Vohra performed the duties of a son even during the hospitalization of the Testator and stayed with him overnight in the hospital. He gave several instances of medical care provided by Mr. Manmohan Singh Vohra. According to him, none of the other relatives, like the daughters or their families, stayed overnight with the Testator during such hospitalizations.

- He also stated that Mr. Manmohan Singh Vohra took care of his mother for her medical needs and that it was wrong to say that there was any torture or ill treatment by them. Mr. Manmohan Singh Vohra and his wife never forced the Testator for money or for writing a Will. According to the OW-1, the Testator was an independent person who would write his own Wills and get them registered. The Testator always wanted to give his property to both sons as the daughters were married in a proper manner to the best of his ability and were also given a handsome dowry at the time of marriage. He testified to the genuineness and validity of First Will and the Third Will dated 29th February, 1992, and 18th October, 1993, respectively, which were, according to him, registered.
- When the Testator's wife passed away, disturbance took place in the house by the daughters and sons-in-law as they wanted a share in the movable properties, etc. This disturbed the Testator considerably. He stated that the Testator called him and informed him about these things. The daughters also did not attend the death anniversary of Mrs. Sushil Kaur Vohra on 14th August, 1994, and arranged their own function independently on 19th August, 1994, when an advertisement was given.



According to the OW-1, this humiliated the Testator. When he wrote the Codicil dated 29th August, 1994, he was very upset. He also stated that the Testator did not participate in the wedding of his grandson, i.e., Ms. Amrit Kaur's son, as he was very disturbed by the treatment meted out to them. According to him, even at the Testator's death, the daughters did not attend all the ceremonies that were organized.

- In cross-examination, he stated that his affidavit was drafted by Mr. Manmohan Singh Vohra and he signed it thereafter. A substantial part of the cross-examination related to the background of the family, their movement from Pakistan during partition, and a property in Model Town. He reiterated that Khalsa College was established by the Testator.
- OW-1 was 95 years of age when he was being cross-examined, and in response to a number of questions relating to the dates and events, his answer was that he did not remember such facts. He confirmed that in the Niti Bagh house, the kitchen of the testator and his wife was in the main house and one of his son's families was in the rear portion of the house. After the death of Mr. Manmohan Singh Vohra's mother, he and his family moved into the main house. When asked why there were two separate kitchens for the father and the son, he stated that there were two separate families with separate incomes.
- In response to questions relating to the medical condition of the Testator, he did not recall much. He was not aware of who was controlling the lockers of the Testator's wife. He stated that the Testator was not ill-treated by his son and daughter-in-law. Even the threat of coercion by Mr. Manmohan Singh Vohra or his wife for



writing a Will by the Testator was negated by him.

- He confirmed that in Indian society, it is the son who takes care of his father. He stated that he used to visit his brother in Niti Bagh, and on several occasions, he also used to meet the son, Mr. Manmohan Singh Vohra. He did not attend the marriage of Ms. Amrit Kaur's eldest son. He stated that the Testator informed him that no member of the family should attend the wedding of Ms. Amrit Kaur's eldest son as he was upset with her. As per him, the Testator was extremely upset and considered the publication of the Hindustan Times advertisement on 18th August, 1994, as a public insult and that he had nothing to do with them. He was also told by his brother not to have anything to do with them.
- OW-1 also claimed that the Testator had told him that he had changed the Will and wrote a handwritten letter which he showed to him. He also said that his brother's relationship with his son was most cordial. According to him, the daughters and sons-in-law did not show any remorse on the death of the Testator. He denied the suggestion that the family of the Testator had boycotted Mr. Manmohan Singh Vohra. He denied the suggestion that he was deposing at the instance of Mr. Manmohan Singh Vohra. He claimed to have seen the Codicil written by the Testator at his house. He also stated that the testator had written two Wills on which his photos were affixed. He stated that he was shown a fictitious Will dated 7th November, 1994, by Mr. Manmohan Singh Vohra. It was a typed copy that had signatures. According to him, the contents of the said Will are false. He stated that the allegations in the Will about Mr. Manmohan Singh Vohra and his wife



were false.

77.2 **OW-2 Mr. Ram Pershad Rohtagi, Court Clerk of the Testator, Attesting Witness to the First and Second Wills.**

- He recognized the signatures on the Will dated 29th February, 1992, i.e., the First Will, on each of the four pages. He also identified the signatures of the Testator and of Mr. Mohinder Singh Oberoi (Testator's relative) on the First Will. He also identified his own signatures and the signatures of the Testator on the Second Will dated 8th October, 1993. He identified the signatures of Mr. H.P.S. Oberoi and Mr. G.S. Bindra on the Second Will. He also identified the signatures in the Codicil dated 21st August, 1994, and recognized the signatures of Mr. Varsha Chandra, an Advocate, on the Codicil.
- His cross-examination initially related to his own family. He started working with the Testator from 1949 and served with the Testator until his death. He stated that he used to receive 10% of the professional fee. He continued to remain in the chamber after Mr. Manmohan Singh Vohra joined. He stated that usually, with all the clients, it was his job to settle the fee and receive the fee, and there was never any dispute between him and his senior in relation to the fee.
- He described the Testator as a man of '*Shandar* Character' and '*Shandar* Insaniyat'. He stated that the Testator and his son used to come in the same car, and either of them would drive it until a driver was appointed. He denied having worked with any other lawyer. He named various known advocates who worked with the Testator, including Shri N.S. Sistani, Shri D.K Aggarwal, Mr. Rajender Sachhar and Mr. Girdhar Malviya.



- He stated that the Testator had executed three Wills throughout his life and that he was personally present during the execution of two Wills. He also stated that he was aware of all the documents executed by the Testator in respect of his properties from time to time. According to him, the Testator had one property in Niti Bagh. He was a tenant in the High Court chamber and had offices in Daryaganj and Connaught Place.
- He confirmed that he was treated as a family member by Mr. Vohra and his wife, as well as by his son and his family and the daughters. He even knew the nicknames of one of the daughters and participated in all the family functions of the testator, including marriages and birthdays. He was also aware that Mr. Manmohan Singh Vohra was married twice. He stated that when the first divorce of Mr. Manmohan Singh Vohra took place, all articles were returned and that he was personally present when the articles were returned to the parents of the girl at No.69, Daryaganj. The returning of the articles was done in Daryaganj, and thereafter, the Testator had gone home.
- He knew various details about the family, their schedule, the family of the Testator, their children, their education, and the brother of the Testator. He confirmed that Mr. Vohra had started practicing in Delhi High Court in 1966 when it was established at Hathi Wali Kothi, and thereafter, it moved to Patiala House and then to the present complex of the Delhi High Court. He confirmed that he joined Mr. Vohra when he only had a seat at Kashmere Gate and did not even have a chamber.
- He stated that Chamber No. 31 of Mr. Vohra was earlier allotted to Mr. Fakir Chand Bedi. The shop of Mr. Harbans Singh Vohra, who was a



tailor master and was specially-abled, after his death went to Mr. Darshan Singh Vohra. According to him, the Testator never demanded any share in the shop, nor were the relations strained between Mr. Darshan Singh Vohra and the Testator.

- He remembered the names of all the sons and daughters-in-law as also the daughters and their spouses, except the son who had gone to the US. He was also aware of the lawyers who were representing Mr. Manmohan Singh Vohra in his divorce case, which was pending before the Court of Mr. K.B. Andlay, the then A.D.J. According to him, the Testator started his Connaught Place office in 1977 under the tenancy of Mr. P.S. Swamy for Rs. 100/- per month rent.
- He knew about the firm G.S. Vohra and Company, which was started, and he stated that Mr. Kamlesh Buchar was a junior of Mr. Vohra. One Mr. D.K. Aggarwal was also a partner of the said firm. He confirmed having seen the partnership deed but did not have a copy. The firm only had clients of the Testator, though Mr. Manmohan Singh Vohra also had some clients. He stated that the income of both the father and the son used to be pooled in one place, and then he would assist them in all the cases.
- He named a couple of clients who came purely through Mr. Manmohan Singh Vohra. He also named clients of Mr. Manmohan Singh Vohra after the death of the Testator. He confirmed that Mr. V.P. Sharma was also working in the firm after Mr. Ramdev Sharma left in 1985-86 and he continued working till the death of Mr. Vohra in 1995. He confirmed that the Testator and his son used to come together in the car to the Court.



- Regarding the Wills, he confirmed the execution of the First Will dated 29th February, 1992. The Testator had already got his Wills typed. One Mr. Mohinder Singh Oberoi, who is a relative, was present when he made the First Will. He did not remember the contents of the Will dated 29th February, 1992. He stated that he had signed the Will after taking 10 to 15 minutes to read it. It is correct that Mr. Manmohan Singh Vohra did not have a separate car but he mostly came with his father and used to drive it until they hired a driver.
- He also confirmed that when the children of Mr. Manmohan Singh Vohra were born and grew up, the Testator built two bedrooms at the back portion of the house. He denied any allegations of quarrels between the Testator and Mr. Manmohan Singh Vohra. He also denied the suggestion that quarrels arose after Mr. Jitender Singh Vohra left for America. He stated that Mr. Jitender Singh Vohra left for America even when the family was staying in Daryaganj.
- He confirmed that even after the death of the Testator, OW-2 used to go to Chamber no.31 and work with Mr. Manmohan Singh Vohra until his death on 13th August, 2008. The chamber is now being run by Mr. D.S. Vohra, who is the son of Mr. Manmohan Singh Vohra. He negated the suggestion that he would visit the chamber for the purposes of the present suit but confirmed that due to sheer boredom at home, he used to go to the chamber for a change.
- He also knew the room which was to be occupied by Mr. Jitender Singh Vohra upon his visits to India. However, he could not narrate the year in which the house in Niti Bagh was built. He confirmed having been present at the death ceremony of Mrs. Vohra, where 50 to 60 people



were there. The *barsi* is usually observed 11 months after the death. He had attended the *paath* on 14th August, 1994, which was conducted by the *Bhaiji* from the Gurudwara.

- He confirmed that the Testator told him that the daughters were holding *varina paath* on 19th August, 1994, and showed him the newspaper, and that he was greatly disturbed by that development. He did not attend the *paath* at Shah Ji Gurudwara Lajpat Nagar on 19th August, 1994, though he confirmed that Mrs. Vohra used to visit that Gurudwara.
- He stated that Mrs. Vohra was considered by him as a motherly figure and that he would visit the Niti Bagh house at least 8-10 times a month while Mr. Vohra was alive and that he still visits the house today. He denied any suggestion that the *akhand paath* was to be held in the Gurudwara in Lajpat Nagar. He confirmed that Mr. Vohra did not attend the *akhand paath* organized by the daughters and did not pay for the same. He was annoyed about it and within five months of the same, Mr. Vohra died. He stated that Mr. Vohra was so upset about the *paath* carried out on 19th August, 1994, by the daughters for his wife's *varina* that he, in fact, used to cry in front of him.
- When asked about evidence regarding the expenses for the Shah Ji Gurudwara, the witness stated that there can be no evidence that Mr. Vohra did not pay. He confirmed that Ms. Varsha Chandra had visited the house of the Testator on 14th August, 1994. On that day, he confirmed the presence of Mr. Ved Prakash Sharma and Ms. Amrit Kaur Oberoi. Ms. Varsha Chandra was stated to be a junior of Mr. Vohra who used to come to the chamber every day. The chamber was open throughout the year, 365 days from 1992-1993 until the date Mr.



Vohra passed away. She was paid the fee as a junior.

- He had never visited the house of Mr. Bhupinder Singh or Mr. S.S. Chadha, the sons-in-law. He was aware of Mr. Anil Kapur, Advocate; however, he was not aware of whether he was related to the Testator. He confirmed that the mother-in-law of Mr. Anil Kapur was a client of Mr. Vohra. He was never a client of Mr. Gayan Singh Vohra as Mr. Vohra never handled any case of Mr. Kapur. The only case handled was the case of the mother-in-law of Mr. Kapur. Mr. Anil Kapur was treated by Mr. Vohra as a client and not as a son. He stated that he had long working hours from 8:00 a.m. to 11:00 p.m. or midnight in Mr. Vohra's chamber.
- He denied suggestions that Mr. Ved Prakash Sharma and Mr. Anil Kapur were together in the Connaught Place office. He stated that Mr. Kapur had his office at Kolaba Restaurant in Connaught Place owned by his father-in-law. Upon being confronted with the Fourth Will dated 7th November, 1994, he stated that the said document did not bear the signatures of Mr. Vohra and that the signatures are forged. He stated that since he is familiar with the signing of Mr. Vohra for a very long time, he is able to state that they are forged signatures.
- He stated that he did not know any person by the name Mr. Tejinder Singh Rana. He denied the suggestion that the Testator would change his style of signatures from time to time. He could not identify the signatures of Mr. Anil Kapur. He denied the suggestion that Mr. Vohra favored him by providing funds for purchasing his property. He confirmed having seen the Will dated 29th February, 1992 on the date when the same was signed by the Testator and that he was one of the



witnesses to the said Will.

- He stated that the Testator used to give dictation for typing by calling a typist from the typing pool. The other witnesses were present in the chamber before he reached the chamber. The Will was first signed by Mr. Vohra. He also confirmed that another Will was executed on 8th October, 1993, which was also executed in the chamber first by Mr. Vohra, who signed it, and then by the witnesses. He remembered that both the Wills were signed around 10:00 a.m. to 12 noon. He stated that Mr. Vohra's chamber was open even on festival days and holidays and, therefore, all days were working days in the chamber. He confirmed having signed the Second Will dated 8th October, 1993 as a second witness.
- He confirmed that the First Will dated 29th February, 1992 was a registered document and that he was present at the time of registration of the Will. He stated that the Sub-Registrar deleted the presence of the witness out of respect to Mr. Vohra, whom he personally knew. Both the attesting witnesses were present at the time of registration and the process was completed by lunch. He stated that he was not a witness to one of the Wills of Mr. Vohra as he was travelling on one date.
- According to him, no Will was executed on 7th November, 1994, and he has not seen the said document. He confirmed that Mr. G.S. Vohra and his brother Mr. Darshan Singh Vohra had a cordial relationship and the brother used to come occasionally to the chamber. He denied the suggestion that they were not on good terms as there was some dispute over monetary issues during the partition period.
- He knew Mr. Mohinder Singh Oberoi, who is the son-in-law of Mr.



Vohra's aunt. He was also a client of Mr. Vohra. Mr. Vohra did not represent Mr. Oberoi in any case, though he advised him. He denied allegations of connivance. The suggestion that Mr. Vohra was looking after the criminal case against Mr. M.S. Oberoi was denied. He confirmed that Mrs. Harveen Kaur Vohra, i.e., the wife of Mr. Manmohan Singh Vohra, treated him like a family member. He stated that the Testator informed him of the unreasonable demands made by his daughters. He denied that Mr. Manmohan Singh Vohra forged the First Will dated 29th February, 1992, the Will dated 8th October, 1993 and the Codicil dated 21st August, 1994. The allegations of forgery of the two Wills and the codicil were denied. He denied the suggestion that the Will dated 7th November, 1994, was the last Will and testament. A sheet consisting of a few signatures was shown to the deponent, in which he confirmed that none of the signatures belonged to the Testator.

77.3 OW-3 Mr. G.S. Bindra, Attesting Witness to the Second Will.

- He is a close relative of the Testator who gave evidence on behalf of the objectors. He stated that the Testator had a cordial relationship with his son, daughter-in-law, and their family. The witness was also a client of the Testator, and according to him, the Testator and his son together conducted his case as well. They traveled together from the residence on most occasions. He stated that the Testator called him on 8th October, 1993, and asked him to sign the Second Will as an attesting witness. Mr. H.P.S. Oberoi and the Court clerk (OW-2) were present at that time. He stated that the Will was first signed by the Testator in Mr. Oberoi's and the Court clerk's presence. After the Testator signed the



Will, Mr. Oberoi followed, thereafter OW-2 and then OW-3. He identified the signatures of the Testator and other witnesses on the Will.

- He stated that the Testator called him again on 18th October, 1993, for signing another Will and for being an attesting witness. He then found Mr. Anil Kapur sitting with him. The Testator followed a similar process for signing the Will first in the presence of both witnesses. The signatures of the Testator and other witnesses were also appended. He recognized the signature of the Testator. He stated that he was informed that the Testator had got his Will attested before the Sub-Registrar.
- In December 1993, Mrs. Amrit Kaur's eldest son was to get married, and the family and relatives had received invitations. However, as per the witness, the Testator called him and told him not to attend the marriage as he was very upset with her, and therefore, Mr. Bindra stated that he also did not attend any functions related to the said marriage or anniversary.
- In the cross-examination, the witness stated that after the demise of the Testator, he had visited the Niti Bagh residence to offer condolences to his son and his family.
- He stated that the Second Will was executed in the High Court chamber in the forenoon on 8th October, 1993, and that the Third Will was executed at the Niti Bagh house in the forenoon. On both occasions, the witness stated that he was telephonically called by the Testator himself. He stated that when he reached the Delhi High Court, the Will was already typed and ready. He confirmed his relationship with Mr. Vohra. He stated that his father was a building contractor and they had



a flourishing business. In a couple of arbitration cases, Mr. Vohra had handled the matter for him.

- He did not know any details of Mr. Anil Kapur except the fact that he was in the chamber at the time when the Third Will was signed. He confirmed that the children of Mr. G.S. Vohra never quarreled in his presence. He further confirmed that the son was living in the rear portion of the house but they had cordial relations. He had never seen an altercation between the Testator and his son Mr. Manmohan Singh Vohra. He stated that Smt. Anita Juneja was his wife's cousin and used to visit their house sometimes. He could not identify the signatures of Anil Kapur. He stated that he met with the Testator a week or ten days before his death.
- He further stated that he had not read the contents of the Second Will dated 8th October, 1993 either before signing or after signing the Will. He denied the suggestion that he had appended his signatures on the Second Will after it was executed. He derived the knowledge of the registration of the Second Will from the Testator. He did not have clarity as to which of the Wills was registered as per the information given to him by Mr. Vohra. He admitted that he was not present at the time when the Wills were registered.
- He stated that he was witness No.2 in the Third Will dated 18th October, 1993. He did not recall if he had signed the first two pages of the Will dated 18th October, 1993. He stated that he did not place any documentary proof that he was invited to Mrs. Amrit Kaur's son's wedding. He could not recall when Mrs. Amrit Kaur's death took place. Mrs. Amrit Kaur, as per him, had come to his house to deliver the



invitation card. He confirmed that after he had filed the affidavit in evidence, Mrs. Anita Juneja never visited his house.

77.4 **OW-4 Mr. Ishwar Chand Garg, Attesting Witness to the Third Will.**

- This witness is an advocate who stated that the Testator had approached him on 20th October 1993 for the purpose of registering his Will dated 18th October 1993. The original Will was seen by this witness, and the same was handed over to the witness with photographs. He claimed that Mr. Vohra had told him that he had signed the Will in the presence of two witnesses. The Sub-Registrar asked him to sign on each page of the photocopy of the Will as well as on the back pages of the original Will, which he did. He also put his thumb impression on the photocopy in the presence of the Sub-Registrar.
- The said attesting witness, Mr. Rajesh Kumar, also signed the original Will and the photocopy, and Mr. Garg also signed it. The executed and registered Will was exhibited by the witness. A certified copy of the Will was also exhibited by the witness as Ex. OW-4/1 and Ex. OW-4/2, respectively. The witness also stated that at the time of execution of the Will, the Testator was in a sound disposing state of mind and in perfect sense.
- In cross-examination, the witness was shown the summoned record from the Sub-Registrar's office. He confirmed the signatures of the Testator on the front and back pages and the thumb impressions. He also confirmed the signatures of Mr. Rajesh Kumar as well as his own signatures. The Will brought from the Sub-Registrar's office was



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marked as Ex. OW-4/2, and the original Will was marked as Ex. OW-4/1.

- He stated that his affidavit is based on facts. He stated that he had seen the file of Mr. G.S. Vohra. The Sub-Registrar's office was at INA, New Delhi. The Will was registered on 20th October 1993. At the time of registration, the two named witnesses, Mr. Anil Kapur and Mr. G.S. Bindra, were not present. Mr. Garg was the witness to the registration of the Will.
- He had casual acquaintances with the Testator. He knew the Testator as his services were being used by the Testator for obtaining certified copies of the sale deeds and other documents. The witness could recognize the Testator and confirmed that he was short-statured and did not use a walking stick. After the registration of the Will, the Testator did not meet the witness again. He stated that he had witnessed others' Wills as well.
- He confirmed that there is no complaint against him in the Bar Council. He denied the suggestion that the Will was registered at the instance of Mr. Manmohan Singh Vohra.

77.5 OW-5 Mrs. Harveen Kaur Vohra, Daughter-in-Law of the Testator

- She was married to the eldest son, Mr. Manmohan Singh Vohra, on 14th May, 1977. She lived with her in-laws and husband in Daryaganj, which was stated to be rented accommodation. The family shifted to Niti Bagh in 1980. She had two children - a daughter born in 1978 and a son born in 1982.



- The main house, according to her, had three bedrooms with a drawing room, dining room, and lobby. One bedroom was for the parents, the second for her and her family, and the third was reserved for the second son- Jatinder Singh Vohra, who used to visit as per her mother-in-law's wish. According to her, when the children were growing up, a need was felt to expand the house to have more space. Accordingly, a two-bedroom set with a drawing room, dining room, and kitchen was built by her father-in-law, Mr. Vohra, where she moved in 1985-86. Both portions of the house were interconnected, and she had a cordial relationship with her in-laws. Her husband was an advocate, and he worked in the same office and chamber as his father. They used to go and come back together at the same time.
- In September 1993, the mother-in-law developed some chest complications and subsequently died on 19th September, 1993 at home. According to OW-5, on 25th September, 1993, late in the evening around 8:30 pm, both daughters created a scene in the presence of other family members and relatives. They demanded half of the amount lying in the bank accounts, as well as FDRs, gold jewellery, and locker contents. According to her, both daughters were part of the pre-planned incident and they threatened that if half share was not given immediately, they would boycott the *antim bhog* ceremony fixed for 26th September, 1993. The daughters and their husbands did attend the *bhog* ceremony the next day. They were given Rs. 10,000/- each with the consent of the Testator. After the *bhog* ceremony, the daughters and their families levelled threats that if their half share was not given, they would boycott Mr. Vohra.



- After Mrs. Vohra's death, the son's family moved into the main house, which according to her, was Mr. Vohra's desire. She then deposed about the contents of the registered First Will dated 29th February 1992. According to her, since the First Will's bequest was in favor of Mr. Vohra's wife (i.e., her mother-in-law) and she passed away, Mr. Vohra decided to execute a second Will on 8th October, 1993 in view of the changed circumstances. Finally, he executed his last Will on 18th October, 1993 and got it registered with the Sub-Registrar's office.
- She then deposed about the first death anniversary where a religious function was organized on 14th August, 1994, which was not attended by the Petitioners and their families. According to her, this was a very serious matter, and when Mr. Vohra later learned from the newspaper that the Petitioners and their husbands had organized a separate first death anniversary at Shah Ji Gurudwara, Lajpat Nagar at 5:00 am and mentioned the names of the Petitioners and their family members but not Mr. Vohra, his sons, or their families, he was deeply upset. He did not go to the Court on 20th August, 1994 as he took this as a humiliation in his social circles. He then decided to write a Codicil dated 21st August, 1994 in his own hand, describing some of the events. She identified Mr. Vohra's handwriting and signatures on various pages of his diary. She also identified the signatures of her brother-in-law, Mr. J.S. Vohra, in the letters exhibited as Ex.PW-3/02, Ex.PW-3/03, and Ex.PW-3/04.
- She stated that in view of the misbehavior by the Petitioners, the Testator debarred them from getting any part of his estate. According to her, the alleged Will dated 7th November 1994, i.e., the Fourth Will is a



false, forged, and fabricated document, which was falsely signed by the Petitioners' own men as the attesting witnesses. She stated that on 17th January, 1995, Mr. Vohra worked until 4:00 pm in the Delhi High Court chamber, and after reaching home, he had a stroke. He was diagnosed with a brain hemorrhage and went into a coma. He was taken to Mahindra Hospital and passed away in the early hours of 20th January 1995. Work in the High Court was suspended on that day as a mark of respect for Mr. Gyan Singh Vohra.

- She described Mr. Vohra as a very strong-built person, dominating and active in his work, social circles, and political circles. Her husband was a partner in G. S. Vohra & Company after joining practice in 1963. According to her, she had served her in-laws to the best of her abilities as part of her duty. She categorically asserted that the last Will and the testamentary documents are the Third Will dated 18th October 1993 and the Codicil dated 21st August, 1994. These have already been acted upon. According to her, Mr. J.S. Vohra is realizing all the rentals from the tenants occupying the first floor as well as the tenant occupying the first floor of the garage of the Niti Bagh property. Her husband was a member of this group housing society and was an original allottee of House No.213, Sudkhdev Vihar, New Delhi, which was his personal property. She claimed that her husband built the house at Sukhdev Vihar with his own funds and was an income tax assessee even before his marriage.
- In her cross-examination, she stated that the probate case is being looked after by her after her husband's demise on 13th August, 2008. In cross-examination, she confirmed that her husband was beside the



Testator when he passed away in hospital. She denied the suggestion that the daughters were with their father when he breathed his last. She also denied that the daughters met her husband. According to her, none of the daughters visited their father in hospital during the three days. She stated that she spent a lot of time in hospital during those three days. She was informed of the death of the Testator through telephone. She knew some detailed facts about where the body was kept and when the dead body was brought home. She confirmed that both the daughters and their husbands had attended the funeral and, thereafter, were also present in the gurdwara.

- She confirmed that her marriage with Mr. Manmohan Singh Vohra was her second marriage. She explained how they were residing in the Daryaganj house and stated that the property in Sukhdev Vihar was purchased before her marriage, which was also Mr. Manmohan Singh's second marriage. She could not answer whether her husband had sufficient funds to purchase the Sukhdev Vihar property before 1977, i.e., before her marriage. She mentioned that the only case pending in respect of the Niti Bagh property was the present case, but was confronted with two other suits pending in Tis Hazari, which she confirmed were injunction suits.
- She denied the suggestion that in 1980, the first floor of the property was meant for Mr. Jatinder Singh Vohra and the rooms on the ground floor were meant for the two daughters. She stated that when the daughters visited their father's house, they stayed in the room meant for the second brother as he was living in the US. Between 1980 to 1995, she stated that the second brother visited Delhi 4 to 5 times and



occupied the third room meant for him during these visits. At the time of giving evidence, she said that if the second brother travelled from the US, he continued to occupy the said room.

- A question was put to her about which Will of her father-in-law she was deposing. The demeanor of the witness was noted by the Court, and she finally answered that she was deposing in a matter relating to the Will set up by the two daughters, which she claimed was a forged Will. She confirmed that she read the Will dated 7th November 1994, which runs into two pages. According to her, there was no signature of her father-in-law on every page but only on the last page. She stated that in the Fourth Will dated 7th November 1994, one witness is Mr. Anil Kapur, and it also bears the signatures of Mr. Shiv Nath Mehra and Mr. T. S. Rana.
- She admitted that her son was born in Niti Bagh and her daughter in Daryaganj, and she also admitted that their birth certificates mention Niti Bagh as the place of birth. She confirmed that the second brother never resided on the first floor and that the said floor has never been transferred in his name. She denied the suggestion that she claimed she had constructed two rooms in the back portion and credited the construction to Mr. Vohra. She denied that Mr. Vohra had three rooms on the first floor and there was no necessity to make additional rooms at the back portion since the rooms on the first floor were rented out for her father-in-law's rental income. She denied the suggestion that he did not require any rental income as a Senior Advocate.
- She confirmed that she, along with her husband and children, had shifted to the constructed portion at the rear, which had a separate



kitchen. She clarified that it was a small pantry-type kitchen. She confirmed that the rear portion could be accessed from both the garage side and the front side of the house. She stated that the distance between the front side and the rear side of the ground floor is only 6 meters and not 10 meters as suggested.

- She stated that she had never accompanied her father-in-law to the Supreme Court. She also denied the suggestion that her father-in-law and her husband had different clients and cases. She volunteered that they had a law firm and would appear in each other's cases as well as those of the firm. They would not normally appear in the same Court; if her father-in-law was attending a matter in the High Court, then her husband would attend a matter in the District Court. The law books' library was common. She was not aware if her husband had any separate subscriptions for law books. She also stated that she had never been involved in the office affairs of either of them.
- She stated that after Court work, they would come back to the residence in Niti Bagh. She denied that her husband used to go directly to the Connaught Place office after finishing court work, stating that both would come home first. She was not aware of whether the books in the library in the High Court chamber or the Connaught Place office bore the name of her father-in-law. According to her, till 1990, her father-in-law and her husband used to drive the car, and after 1990, her father-in-law engaged a driver. Until his death, the driver was employed, and the salary was paid by her father-in-law, i.e., from the company they had.



- She was not aware if salary was being paid by cheque or cash or whether her husband drew any salary from the firm. Her husband purchased a car during her father-in-law's lifetime in 1992, which he used to drive. After 1992, her husband went to the Court and the office in his own car.
- In reply to a question as to whether he used to go to Court and office after 1992, she stated that only one car was used, and at no time were both cars used simultaneously. The car was sometimes driven by the driver and sometimes by her husband. Her husband practiced independently only after the death of his father. She was not aware of who bore the expenses of the Connaught Place office after the death of her father-in-law. She confirmed that her father-in-law was the exclusive owner of the office at Connaught Place and did not pay any rent. As a son, her husband had the privilege to sit in that office, and similar privileges were extended to the office and chamber in the Delhi High Court and the Daryaganj office.
- She was not aware of who was bearing the expenses for the furniture and fixtures in both the offices, the residence, and the chamber. She was not aware if her father-in-law had been writing any letters on company stationery. She confirmed that the only property in the name of her father-in-law was the one situated in Niti Bagh and that the Niti Bagh property was not in the name of the law firm. She also confirmed that prior to her marriage in 1977, her father-in-law had vacated the Daryaganj office. She stated that she was not aware if Mr. Bhupinder Singh had been using the Daryaganj office since 1975. However, she later confirmed that Mr. Bhupinder Singh had been using the office



until the death of her father-in-law. When asked if her father-in-law had given the office to Sardar Bhupinder Singh, she answered that the office was given to his daughter Mrs. Anita Juneja.

- She confirmed that her husband had suffered a heart attack in 1980 and was taken to the hospital by her brother-in-law Mr. S.S. Chadha to Moolchand Hospital. She also confirmed that when her mother-in-law fell ill, she was admitted to Moolchand Hospital. She confirmed that the daughters visited their mother at Moolchand Hospital and volunteered that she used to visit the hospital and that her husband got the mother admitted when she had fallen ill. She denied that both daughters were present when the mother-in-law died in the hospital and volunteered that her mother-in-law expired at home around 4:00 in the evening on 19th September, 1993. On a second suggestion that both daughters were present when the mother-in-law died, she denied the same. She confirmed that they were present at the last rites and rituals and that the *antim bhog* was held on 26th September, 1993. She also confirmed that from 19th September, 1993 till 26th September, 1993, the daughters were continuously visiting the Niti Bagh house. She also confirmed the payment of Rs.10,000/- each at the *antim bhog*.
- She confirmed that there was an internal storeroom in the Niti Bagh residence, which had a sandook, a steel almirah, a chest to keep valuables, and also a cupboard. She confirmed that the said room, which had a steel almirah and the sandooks, no cupboards and chest were there in the room. She also stated that before the death of her mother-in-law, she used to look after the household expenses but not the finances of her husband. She stated that she was herself looking



after the household expenses. She did not confirm how much money her mother-in-law left when she died. She also did not confirm the amount of the FDRs and stated that the gold and jewelry of her mother-in-law were kept in a bank locker, the nominee of which was Mrs. Anita Juneja. She was not aware of the name of the bank where the locker was kept or who was keeping the keys to the locker. She did not have any list of articles kept in the locker. To a suggestion that she had herself kept all the jewelry and FDRs of her mother-in-law, she denied. She denied the suggestion that she and her husband had misappropriated the entire assets of her mother-in-law.

- She could not give the exact date when she started living in the Niti Bagh house. She stated that her father-in-law had asked her to come and stay in the front portion of the Niti Bagh house. She also stated that the rear portion was not vacated after she and her family moved to the front portion. She stated that the rear portion was rented out after the death of her father-in-law on 20th January 1995 and continues to be on rent. She had informed her brother-in-law that she was living in the front portion but not her sisters-in-law. She denied the suggestion that Mr. Vohra was not happy with the son and daughter-in-law moving to the front portion and that the sisters had requested them to shift to the back portion. She stated that she never spoke telephonically with her husband's sisters. She stated that till the death of her mother-in-law, she had regular interactions with her sisters-in-law, but after the death of her mother-in-law, she never spoke to them. She denied the suggestion that the quarrel took place when the sisters asked her and her family to vacate the front portion.



- According to her, the changed circumstances of the Will dated 8th October 1993 were that her father-in-law, after the death of her mother-in-law, wanted to give the properties to his sons, which led to the quarrel. He then executed the Will dated 8th October 1993. She denied the suggestion that the properties were given to the daughters in the said Will. When asked who intimated the daughters of Mr. Vohra to attend the *Paath* prayer on 14th August 1994, she answered that she had informed Mrs. Anita Juneja on the telephone and had requested her and her sister Mrs. Amrit Kaur to attend the prayers. However, they did not come. Her husband was the person who did everything on 14th August 1994. She confirmed that on 19th August 1994, the daughters organized a separate *Paath* prayer, which was impermissible as per family customs. She denied the suggestion that Mr. Vohra was involved in organizing the *Paath* ceremony at Lajpat Nagar Gurudwara on 19th August 1994. She stated that she did not attend the *Paath* ceremony on 19th August 1994, and neither did her father-in-law.
- She denied that her husband had any fight with his sisters and stated that the fight was between her father-in-law and the daughters. She denied that the diary was fabricated or that the letters of Mr. J.S. Vohra were fabricated. She denied the suggestion that she and her husband used to ill-treat the parents to grab the property.

77.6 OW-6 Mr. Dheeraj Kumar, Official from the Office of the Sub-Registrar-V, Mehrauli, Delhi.

- He produced the summoned records relating to the registration of the Third Will dated 18th October, 1993 registered on 20th October, 1993. The details of the registration in the Register were also produced. He



confirms that the exhibited Will Ex. OW-4/1 is the same as the registered Will. Some challenge was raised about the attesting witness Mr. I.C. Garg.

77.7 OW-7 Mr. Naveen Gandas, Record Lifter from the Department of Delhi Archives.

- He produced the records relating to the Will dated 29th February, 1992, registered on 18th March, 1992 with the Sub-Registrar, Asaf Ali Road. The original Will was seen, returned, and exhibited as Ex.OW-1/1. A suggestion was put to the witness that the signatures appearing on page 3 do not tally with those on page 3 of the summoned record. The witness then stated that in the summoned record, two signatures are visible, while the third one is not. He confirmed that there is no third signature on page 3 in the summoned record and it was not visible due to pasting of paper.

78. Insofar as the affidavit of Mr. Anil Kapur dated 27th February, 2006, who was a witness to the Third Will and purported witness to the Fourth Will is concerned, the said affidavit cannot be read in evidence as he did not appear for cross-examination. This is clear in view of the settled legal position in *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra, [(2012) 10 S.C.R. 994]* wherein the Supreme Court observed that an affidavit by itself is not considered evidence under Section 3 of the Indian Evidence Act, 1972. Merely filing an affidavit containing one's own statements in favor of oneself does not meet the standard of sufficient evidence required by Courts. The relevant portion of the said decision reads as follows:

“31. Affidavit - whether evidence within the meaning of Section 3 of the Evidence Act, 1872:



It is a settled legal proposition that an affidavit is not evidence within the meaning of Section 3 of the Indian Evidence Act, 1872 (hereinafter referred to as the 'Evidence Act').

Affidavits are therefore, not included within the purview of the definition of "evidence" as has been given in Section 3 of the Evidence Act, and the same can be used as "evidence" only if, for sufficient reasons, the Court passes an order under Order XIX of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'Code of Civil Procedure'). Thus, the filing of an affidavit of one's own statement, in one's own favour, cannot be regarded as sufficient evidence for any Court or Tribunal, on the basis of which it can come to a conclusion as regards a particular fact-situation. (Vide: *Sudha Devi v. M.P. Narayanan and Ors.* : AIR 1988 SC 1381; and *Range Forest Officer v. S.T. Hadimani* : AIR 2002 SC 1147).

32. While examining a case under the provisions of the Industrial Disputes Act, 1947, this Court, in *M/s Bareilly Electricity Supply Co. Ltd. v. The Workmen and Ors.* AIR 1972 SC 330, considered the application of Order XIX, Rules 1 and 2 Code of Civil Procedure, and observed as under:

“But the application of principles of natural justice does not imply that what is not evidence, can be acted upon. On the other hand, what it means is that no material can be relied upon to establish a contested fact which are not spoken to by the persons who are competent to speak about them and are subject to cross-examination by the party against whom they are sought to be used. When a document is produced in a Court or a Tribunal, the question that naturally arises is: is it a genuine



document, what are its contents and are the statements contained therein true..... If a letter or other document is produced to establish some fact which is relevant to the inquiry, the writer must be produced or his affidavit in respect thereof be filed and opportunity afforded to the opposite party who challenges this fact. This is both in accordance with the principles of natural justice as also according to the procedure under Order 19 of the Code and the Evidence Act, both of which incorporate the general principles”.

33. In *Needle Industries (India) Ltd. and Ors. v. N.I.N.I.H. Ltd. and Ors.* MANU/SC/0050/1981 : AIR 1981 SC 1298, this Court considered a case under the Indian Companies Act, and observed that, "it is generally unsatisfactory to record a finding involving grave consequences with respect to a person, on the basis of affidavits and documents alone, without asking that person to submit to cross-examination". **However, the conduct of the parties may be an important factor, with regard to determining whether they showed their willingness to get the said issue determined on the basis of affidavits, correspondence and other documents,** on the basis of which proper and necessary inferences can safely and legitimately be drawn.

34. In *Ramesh Kumar v. Kesho Ram*: AIR 1992 SC 700, this Court considered the scope of application of the provisions of Order XIX, Rules 1 and 2 Code of Civil Procedure in a Rent Control matter, observing as under:

The Court may also treat any affidavit filed in support of the pleadings itself as one under the said provisions and call upon the opposite side to traverse it. The Court, if it finds that having regard to the nature of the allegations, it is



necessary to record oral evidence tested by oral cross-examination, may have recourse to that procedure.

35. *In Standard Chartered Bank v. Andhra Bank Financial Services Ltd. and Ors. MANU/SC/2534/2006 : (2006) 6 SCC 94, this Court while dealing with a case under the provisions of Companies Act, 1956, while considering complex issues regarding the Markets, Exchanges and Securities, and the procedure to be followed by special Tribunals, held as under:*

While it may be true that the Special Court has been given a certain amount of latitude in the matter of procedure, it surely cannot fly away from established legal principles while deciding the cases before it. As to what inference arises from a document, is always a matter of evidence unless the document is self-explanatory.....In the absence of any such explanation, it was not open to the Special Court to come up with its own explanations and decide the fate of the suit on the basis of its inference based on such assumed explanations.

36. *Therefore, affidavits in the light of the aforesaid discussion are not considered to be evidence, within the meaning of Section 3 of the Evidence Act. However, in a case where the deponent is available for cross-examination, and opportunity is given to the other side to cross-examine him, the same can be relied upon. Such view, stands fully affirmed particularly, in view of the amended provisions of Order XVIII, Rules 4 & 5 Code of Civil Procedure. In certain other circumstances, in order to avoid technicalities of procedure, the legislature, or a court/tribunal, can even lay down a procedure to meet*



the requirement of compliance with the principles of natural justice, and thus, the case will be examined in the light of those statutory rules etc. as framed by the aforementioned authorities.”

79. Thus, since Mr. Anil Kapur has not been cross-examined, as Mr. Kapur himself passed away admittedly on 2nd August, 2009, the said affidavit cannot be read in evidence.

Burden of proof and standard of proof in a civil case of forgery

80. In civil cases involving allegations of forgery and fabrication of documents, the standard of proof required is the balance of probabilities. It is often stated that the more serious the allegation, the higher the degree of proof necessary. Consequently, the more severe the allegation, the stronger the evidence needed to overcome the inherent improbability of the claim and to establish its truth³. Sections 101-102 of the Indian Evidence Act, 1872 lay down clear rules to establish the burden of proof. The burden of proof lies on that person who is bound to prove the existence of any fact. Thus, the party alleging forgery or fabrication, would have to prove the same.

81. In the context of the present probate case, observations made in a recent decision of the England & Wales High Court in ***Jaswinder Kaur Sangha v. Estate of Diljit Kaur Sangha [2021] EWHC 1599 (Ch)*** are relevant:

*“130. The burden of proof in cases of alleged forgery has been the subject of some debate in the authorities. In Wrangle v Brunt, where a will was produced some ten years after the death of the testator and allegedly signed at the direction of and in the presence of the testator, but not by the testator, counsel representing those asserting forgery accepted that the legal burden of establishing forgery lay upon them. **In Supple v Pender [2007]***

³ Re H (Minors) [1996] AC 563, Hornal v. Neuberger Products Ltd [1957] 1 QB 247



WTLR 1461, the question as to whether the burden lay on the party seeking to propound the will to defeat the allegation of forgery, or upon the party seeking to establish the forgery to make good that contention was left, expressly, unresolved. In Face v Cunningham [2020] EWHC 3119 (Ch), His Honour Judge Hodge QC took the view that the burden of establishing the due execution of a will carried with it the burden of establishing the authenticity of the will, such that the ultimate burden of proof lay upon the party propounding the will.

131. I agree, with respect, with Judge Hodge. A party propounding a will must prove that the will propounded is in writing, signed by the testator and duly witnessed. A fabricated will, or a forged will, if there is a difference, will not meet those requirements. It follows that, where forgery, or fabrication, is raised, the obligation on those propounding the will in question will be to negative that contention, as part of the process of establishing the validity and due execution of the will.

132. That said, however, the practical and evidential implications of the existence of this ultimate legal burden of proof must, as I see it, be seen in the context of the particular allegation of forgery, or fabrication, which is being advanced against the will which is being propounded and the evidential burden to be met by those advancing the allegation in question, in order to establish the probability of that allegation.

133. As is well understood, the standard of proof, in determining whether or not any fact be established in a civil suit, is, in all cases, that of the balance of probability; whether the fact, or event, in question is on the evidence more probable than not. That standard remains the same whether the fact in question between



the parties is a trivial one, or, as in the case of an allegation of forgery, or fabrication of a will, whether the fact contended for is one which involves serious dishonesty and wrongdoing.

134. Where, however, the allegation is one of serious wrongdoing, the court, in its assessment of the probabilities will, as explained by Lord Nicholls, in *Re H and Others* [1996] AC 563, at pages 586/7, have regard to the fact that the more serious the allegation the less likely it is that the alleged event occurred and the stronger the evidence required to establish that the allegation is made out. As it was put by Ungood-Thomas J, in *In re Dellow's Will Trusts* [1964] 1 WLR 451, at 455, cited in *In Re H and Others*: 'The more serious the allegation the more cogent is the evidence required to overcome the unlikelihood of what is alleged and thus prove it.

...

*In regard to the evidence going to, or against, the authenticity of each of the two wills, the approach which has been adopted in a number of cases of alleged forgery, or fabrication (*Pittas v Christou* [2014] EWHC 79 (Ch), *Wrangle v Brunt*), following the decision of Mr Peter Leaver QC, sitting as a Deputy Judge of the Chancery Division, in *Supple v Pender* [2007] WTLR 1461, is to focus, initially, upon the evidence of those persons said to be present when the will was made. I adopt that approach. I am not, however, wholly persuaded that, in adopting that approach and in the assessment of the credibility of those said to be present when the will was made, it is, always, right, as in *Supple v Pender*, to make that assessment entirely independently of any expert evidence that might be available and on the footing that that assessment should stand even if in contradiction of such evidence. It seems to me that there might well be cases where the weight of the expert evidence, in contradiction of the witness*



evidence, is such as to impugn the credibility of that evidence.”

Law relating to Wills and Testator's intention

82. The law relating to Wills and the Court's role to fulfil the intentions of the Testator's are well encapsulated in the decision of the Supreme Court in ***H. Venkatachala Iyengar v. B.N. Thimmajamma (AIR 1959 SC 443)*** wherein it was laid down that the mode of proving a will does not ordinarily differ from that of proving any other document except as to the special requirement of attestation prescribed in the case of a Will by Section 63 of the ISA. Further, proof of a Will in either case cannot be mathematically precise and certain and so the test should be one of satisfaction of a prudent mind in such matters. The said decision also held that the onus is on the propounder of a particular Will and in absence of suspicious circumstances surrounding the execution of the will, proof of testamentary capacity and signature of the testator as required by law may be sufficient to discharge the onus. The decision in ***Venkatachala Iyengar (supra)*** has been followed and explained in another judgment of a bench of three Judges in ***Smt. Jaswant Kaur v. Smt. Amrit Kaur (AIR 1977 SC 74)***, wherein the law has been crystallized into the following propositions:

“10. There is a long line of decisions bearing on the nature and standard of evidence required to prove a will. Those decisions have been reviewed in an elaborate judgment of this Court in R. Venkatachala Iyengar v. B.N. Thirnmajamma and Ors. MANU/SC/0115/1958 :[1959] Su. 1 S.C.R. 426. The Court, speaking through Gajendragadkar J., laid down in that case the following propositions :-



1. Stated generally, a will has to be proved like any other document, the test to be applied being the usual test of the satisfaction of the prudent mind in such matters. As in the case of proof of other documents, so in the case of proof of wills, one cannot insist on proof with mathematical certainty.

2. Since Section 63 of the Succession Act requires a will to be attested, it cannot be used as evidence until, as required by Section 63 of the Evidence Act, one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive and subject to the process of the court and capable of giving evidence.

3. Unlike other documents, the will speaks from the death of the testator and therefore the maker of the will is never available for deposing as to the circumstances in which the will came to be executed. This aspect introduces an element of solemnity in the decision of the question whether the document propounded is proved to be the last will and testament of the testator. Normally, the onus which lies on the propounder can be taken to be discharged on proof of the essential facts which go into the making of the will.

4. Cases in which the execution of the will is surrounded by suspicious circumstances stand on a different footing. A shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the will under which he receives a substantial benefit and such other circumstances raise suspicion about the execution of the will. That suspicion cannot be removed by the mere assertion of the propounder that the will bears the signature of the testator or that the testator was in a sound and disposing state of mind and memory at the time when the will was made, or that those like the wife and children of the testator who would normally receive



their due share in his estate were disinherited because the testator might have had his own reasons for excluding them. The presence of suspicious circumstances makes the initial onus heavier and therefore, in cases where the circumstances attendant upon the execution of the will excite the suspicion of the court, the propounder must remove all legitimate suspicions before the document can be accepted as the last will of the testator.

5. It is in connection with wills, the execution of which is surrounded by suspicious circumstance that the test of satisfaction of the judicial conscience has been evolved. That test emphasises that in determining the question as to whether an instrument produced before the court is the last will of the testator, the court is called upon to decide a solemn question and by reason of suspicious circumstances the court has to be satisfied fully that the will has been validly executed by the testator.

6. If a caveator alleges fraud, undue influence, coercion etc. in regard to the execution of the will, such pleas have to be proved by him, but even in the absence of such pleas, the very circumstances surrounding the execution of the will may raise a doubt as to whether the testator was acting of his own free will. And then it is a part of the initial onus of the propounder to remove all reasonable doubts in the matter.”

83. Recently, the Supreme Court in ***Meena Pradhan v. Kamla Pradhan (2023 INSC 847)*** has reiterated the principles required for proving the validity and execution of the will. The relevant portion of the said decision is as follows:

*“9. A Will is an instrument of testamentary disposition of property. **It is a legally acknowledged mode of bequeathing a testator's property during his lifetime to be acted upon on his/her death and carries with it an***



element of sanctity. *It speaks from the death of the testator. Since the testator/testatrix, at the time of testing the document for its validity, would not be available for deposing as to the circumstances in which the Will came to be executed, stringent requisites for the proof thereof have been statutorily enjoined to Rule out the possibility of any manipulation.*

10. Relying on H. Venkatachala Iyengar v. B.N. Thimmajamma, MANU/SC/0115/1958 : 1959 Supp (1) SCR 426 (3-Judge Bench), Bhagwan Kaur v. Kartar Kaur, MANU/SC/1671/1994 : (1994) 5 SCC 135 (3-Judge Bench), Janki Narayan Bhoir v. Narayan Namdeo Kadam, MANU/SC/1155/2002 : (2003) 2 SCC 91(2-Judge Bench) Yumnam Ongbi Tampha Ibema Devi v. Yumnam Joykumar Singh, MANU/SC/0366/2009 : (2009) 4 SCC 780 (3-Judge Bench) and Shivakumar v. Sharanabasappa, MANU/SC/0395/2020 : (2021) 11 SCC 277 (3-Judge Bench), we can deduce/infer the following principles required for proving the validity and execution of the Will:

i. The court has to consider two aspects: firstly, that the Will is executed by the testator, and secondly, that it was the last Will executed by him;

ii. It is not required to be proved with mathematical accuracy, but the test of satisfaction of the prudent mind has to be applied.

iii. A Will is required to fulfil all the formalities required Under Section 63 of the Succession Act, that is to say:

(a) The testator shall sign or affix his mark to the Will or it shall be signed by some other person in his presence and by his direction and the said signature



or affixation shall show that it was intended to give effect to the writing as a Will;

(b) It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;

(c) Each of the attesting witnesses must have seen the testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of such signatures;

(d) Each of the attesting witnesses shall sign the Will in the presence of the testator, however, the presence of all witnesses at the same time is not required;

iv. For the purpose of proving the execution of the Will, at least one of the attesting witnesses, who is alive, subject to the process of court, and capable of giving evidence, shall be examined;

v. The attesting witness should speak not only about the testator's signatures but also that each of the witnesses had signed the will in the presence of the testator;

vi. If one attesting witness can prove the execution of the Will, the examination of other attesting witnesses can be dispensed with;

vii. Where one attesting witness examined to prove the Will fails to prove its due execution, then the other available attesting witness has to be called to supplement his evidence;

viii. Whenever there exists any suspicion as to the execution of the Will, it is the responsibility of the



propounder to remove all legitimate suspicions before it can be accepted as the testator's last Will. In such cases, the initial onus on the propounder becomes heavier.

ix. *The test of judicial conscience has been evolved for dealing with those cases where the execution of the Will is surrounded by suspicious circumstances. **It requires to consider factors such as awareness of the testator as to the content as well as the consequences, nature and effect of the dispositions in the Will; sound, certain and disposing state of mind and memory of the testator at the time of execution; testator executed the Will while acting on his own free Will;***

x. ***One who alleges fraud, fabrication, undue influence et cetera has to prove the same. However, even in the absence of such allegations, if there are circumstances giving rise to doubt, then it becomes the duty of the propounder to dispel such suspicious circumstances by giving a cogent and convincing explanation.***

xi. *Suspicious circumstances must be 'real, germane and valid' and not merely 'the fantasy of the doubting mind'. Whether a particular feature would qualify as 'suspicious' would depend on the facts and circumstances of each case. Any circumstance raising suspicion legitimate in nature would qualify as a suspicious circumstance for example, a shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the Will under which he receives a substantial benefit, etc.*

11. *In short, apart from statutory compliance, broadly it has to be proved that (a) the testator signed the Will out of his own free Will, (b) at the time of execution he had a*



sound state of mind, (c) he was aware of the nature and effect thereof and (d) the Will was not executed under any suspicious circumstances.”

84. In the present probate petition, one crucial issue that has arisen is in relation to judging credibility of the witnesses. The Supreme Court in ***Ramchandra Rambux v. Champabai [(1964) 6 S.C.R 814]*** laid down the manner in which the credibility of witnesses is to be adjudged by a Probate Court. It was held that to judge the credibility of the witness, the Court is not confined only to the way in which the witnesses have deposed or to the demeanour of the witnesses, but it is open to it to look into the surrounding circumstances as well as the inherent probabilities, so that it may be able to form a correct idea of the trustworthiness of the witnesses. It was further held that this issue cannot be determined by considering the evidence adduced in the Court separately from the surrounding circumstances brought out in the evidence, or which appear from the nature and the contents of the document itself. The relevant portion of the said decision reads as follows:

“The questions which we have to consider are whether there was, in fact, a will, that is to say, whether Ramdhan did execute a will during his lifetime, and if so, whether the document upon which the appellant relies is a will executed by Ramdhan and duly attested by witnesses. The appellant can prove these facts only by adducing evidence of the due execution of the will by Ramdhan and of its attestation. The challenge before us is as to the credibility of the witnesses who have come forward to say that the document upon which the appellant relies not merely bears the signature of Ramdhan but represents the disposition made by Ramdhan, that is it was executed by Ramdhan, and that the attesting witnesses attested the execution of the will by Ramdhan. In order to judge the credibility



of the witnesses, the Court is not confined only to the way in which the witnesses have deposed or to the demeanour of witnesses, but it is open to it to look into the surrounding circumstances as well as the probabilities, so that it may be able to form a correct idea of the trustworthiness of the witnesses. This issue cannot be determined by considering the evidence adduced in the Court separately from the surrounding circumstances which have also been brought out in the evidence, or which appear from the nature and contents of the document itself. We do not understand the observations of Lord Waston to mean that the testimony as to the execution of the document has to be considered independently of the attendant circumstances. All that he says is that where there is a large and consistent body of testimony tending to show the execution of a will by the testator, that evidence should not be lightly set aside on the theory of improbability.”

85. In **Kalyan Singh v. Smt. Chhoti and Ors. [(1989) Supp. 2 S.C.R. 356]**, the Supreme Court observed as under:

“It has been said almost too frequently to require repetition that a will is one of the most solemn documents known to law. The executant of the will cannot be called to deny the execution or to explain the circumstances in which it was executed. It is, therefore, essential that trustworthy and unimpeachable evidence should be produced before the court to establish genuineness and authenticity of the will. It must be stated that the factum of execution and validity of the will cannot be determined merely by considering the evidence produced by the propounder. In order to judge the credibility of witnesses and disengage the truth from falsehood the court is not confined only to their testimony and demeanour. It would be open to the court to consider circumstances brought out in the evidence or which appear from the nature and



contents of the documents itself. It would be also open to the court to look into surrounding circumstances as well as inherent improbabilities of the case to reach a proper conclusion on the nature of the evidence adduced by the party.

86. Thus, on a perusal of the above case laws, the settled legal position is that whenever a Will is relied upon by a party, the onus of proving the authenticity of the said Will is on the person propounding the Will. Equally, when forgery or fabrication is alleged, the person making the allegation would have to prove the same. However, where the authenticity itself is in question, then the burden on the person alleging fabrication or forgery would be considerably reduced.

87. One of the factors proving the authenticity of the Will is whether the essential facts which allegedly went into the making of the Will have been proved or not. It is in this context that '*suspicious circumstances*' would come into play. Legitimate suspicions ought to be removed by the propounder who carries a heavy burden. The content of the Will and whether the facts stated therein are established would play a significant role. Various surrounding circumstances may be considered by the Court including the genuinity and credibility of the witnesses, attestation to the facts, contradictions in testimonies, contemporaneous evidence that may be available, impeachable nature of documents or events surrounding the execution of the Will and the overall impression that the Court gathers from the evidence on record. All the testamentary documents have been produced in original before the Court apart from the various exhibits relied upon. The handwritten diary of the Testator has also been produced in original before the Court, during submissions. Having considered the legal position concerning



wills, and after perusing through the various testimonies, it is essential to highlight the key aspects of the different Wills presented before this Court. The analysis of the various wills is as follows:

87.1 First Will dated 29th February, 1992

This Will is a typed registered Will, which is witnessed by two persons namely Mr. Mohinder Singh Oberoi and Mr. Ram Pershad Rohtagi. In this Will, the bequests are as under:

- (i) In relation to the property situated at A-14, Niti Bagh, New Delhi, this property is on sub-lease from the DDA. The lease hold rights shall jointly vest with the two sons Mr. Manmohan Singh Vohra and Mr. Jatinder Singh Vohra.
- (ii) Ground floor, except garage towards House No.13, Niti Bagh, New Delhi is bequeathed to Mr. Manmohan Singh Vohra along with the construction at the rear of the main building.
- (iii) First floor of the property is bequeathed to Mr. Jatinder Singh Vohra along with the two garages which are tenanted. Second and third floors can also be completed at their own expense.
- (iv) Ground floor of the main building is bequeathed to the wife Smt. Sushil Kaur during her lifetime. Life estate in the entire property to use or to let out is bequeathed, and not for sale to the wife.
- (v) The responsibility of paying house tax for this property is upon two sons namely Mr. Manmohan Singh Vohra and Mr. Jatinder Singh Vohra in 60:40 ratio, but if the house is sold, both are entitled to 50:50 ratio.
- (vi) As per Clause 14, no bequests were made for the Testator's daughters, Amrit Kaur and Anita (@Mrs. Anita Juneja), as they



- are already happily settled. The Testator expresses deep love and affection for them and ensures that his wife, Smt. Sushil Kaur, will have sufficient cash to provide handsome funds to the daughters, so they do not feel ignored. Cash to be given to the daughters through the wife to the Petitioners i.e. Mrs. Amrit Kaur and Mrs. Anita Juneja i.e. Rs.750/- per month each, Mrs. Harveen Vohra, daughter in law Rs.750/- per month and Rs.1500/- per month to Mr. Jatinder Singh Vohra. All the household fixtures and effects to be vested with Mrs. Sushil Kaur, the law library to the son Mr. Manmohan Singh Vohra.
- (vii) All the deposits in the post office, national saving certificates, cash etc. to the wife Smt. Sushil Kaur, who is free to give her daughters handsome funds. Some funds may also be given for the education and marriages of Ms. Harleen and Ms. Payal, daughters of Mrs. Anita Juneja. Anything standing in the name of the Testator and Mr. Jatinder Singh Vohra, shall belong to Mr. Jatinder Singh Vohra after his death. However, if the wife predeceases him, all household effects shall devolve entirely upon Mr. Jatinder Singh Vohra. The cash assets, after the death of Mrs. Sushil Kaur, would be divided into three parts i.e. two parts to each of the daughters and third equally to Mr. Manmohan Singh Vohra and Mr. Jatinder Singh Vohra, the sons.
- (viii) Mr. Manmohan Singh Vohra and Smt. Sushil Kaur are appointed the executors. The Testator adds that in this Will, radical changes have been made in regard to the disposition of the house



in Niti Bagh, which has been fully agreed to by both the sons.
The relevant portion is extracted below:

“I have made some radical changes, as regards disposition of my House No. A-14, Niti Bagh, New Delhi, in consultation with my sons and they have fully agreed with them.”

87.2 Second Will dated 8th October, 1993

- (i) This unregistered Will was executed after the death of the wife on 9th September, 1993. The Will states that it has been executed due to material changes in the circumstances.
- (ii) In respect of the property situated at A-14, Niti Bagh, New Delhi, leasehold rights were jointly granted to the two sons. The ground floor of the main building, except the garage, is bequeathed to Mr. Manmohan Singh Vohra, while the first floor of the main building and the garage block are bequeathed to Mr. Jatinder Singh Vohra. The right to build a third storey is granted to both sons jointly. Furniture and fixtures are bequeathed to Mr. Manmohan Singh Vohra for the ground floor and to Mr. Jatinder Singh Vohra for the first floor. Liquid cash, bank deposits, and NSE shares are to be divided as follows:
Mr. Jatinder Singh Vohra: 50%
Smt. Amrit Kaur: 20%
Smt. Anita Juneja: 20%
Harpreet and Davjit: 10%



- (iii) Tenancy rights in property No. 17, Netaji Subhash Marg, New Delhi, are granted to the daughter Smt. Anita Juneja with the consent of all children.
- (iv) Office accommodation at M-77, Connaught Circus, New Delhi, being used since 1969, is bequeathed to Mr. Manmohan Singh Vohra, the son.
- (v) Lawyer's chamber no. 31 in the Delhi High Court allotment, along with the law library in the Connaught Place office, is bequeathed to Mr. Manmohan Singh Vohra.
- (vi) The Fiat car is bequeathed to Mr. Manmohan Singh Vohra. Both sons are appointed as the executors of the Will.
- (vii) This Will is witnessed by Mr. H.P.S. Oberoi, Mr. Ram Pershad Rohtagi, and Mr. G.S. Bindra. This is an unregistered Will.

87.3 **Third Will dated 18th October, 1993**

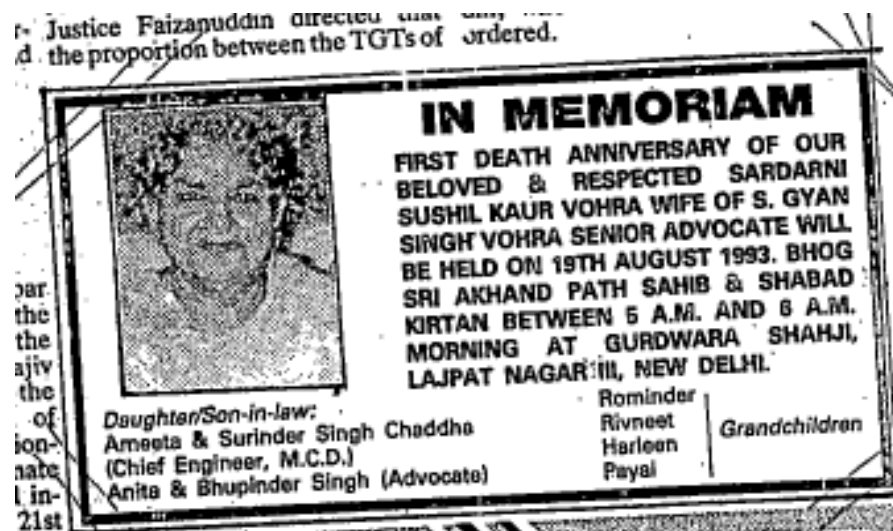
- (i) Within a span of 10 days, a Third Will is executed. In this Will the bequest is almost identical to the Will dated 8th October, 1993.
- (ii) Only in respect of liquidated cash, bank deposits, NSE shares, instead of varying percentages given to one son, two sons and some grand-children, the bequest is changed as under:
 - Mr. Jatinder Singh Vohra, the son was to receive all the assets out of which he would pay Rs.50,000/- each to Smt. Amrit Kaur and Smt. Harveen Kaur Vohra, Rs.1 lakh to Smt. Anita Juneja.



- This Will is witnessed by Mr. Anil Kumar, Mr. G.S. Bindra. Mr. Rajesh Kumar and Mr. Ishwar Chand Garg, advocate were witnesses at the time of registration.

87.4 Codicil dated 21st August, 1994

- This is a hand written Codicil. This Codicil is in Testator's own hand writing – OW-2 Mr. Ram Pershad Rohtagi, the Testator's court clerk for more than 45 years, recognized the hand writing of the Testator.
- The Court has also compared the hand writing in the Codicil with the handwriting in the personal diary of the Testator. The writing in the Codicil cannot be doubted after comparison of the hand writing of the Testator in his diary and in the Codicil. The Codicil has also been signed by Ms. Varsha Chandra, a junior advocate and Mr. Ram Pershad Rohtagi. The signatures have been identified clearly by the Court clerk Mr. Ram Pershad Rohtagi. The content of the Codicil is related to two specific events, firstly the demise of his wife and secondly, the publication in the Hindustan Times newspaper dated 18th August, 1994, which is extracted below:





- This public notice for the first death anniversary of the Testator's wife was published by the two daughters and their husbands, omitting the names of the Testator and his two sons. This omission caused the Testator significant distress, leading to the creation of the Codicil. The content of the codicil is extracted below:

"Codicil

After the death of my dear wife, Smt. Sushil Kaur on 19th September, 1993, I made my last Will & Testament, taking note of the position, as it then emerged. I made provision for my daughters Amrit & Anita. But, despite all this, they & their husbands have been maligning me all this while, which I purportedly ignored.

Now, things came to a head and all of them got published, when they got published in the Hindustan Times, dated 18th August, 1994 under the caption IN MEMORIAM that the Bhog of Shri Guru Granth Sahib & Kirtan will take place in Gurudwara Shah Ji in connection with the demise of Smt. Sushil Kaur, wife of S. Gyan Singh Vohra, Senior Advocate on 19th August, 1994 and the sponsors of this citation are my daughters & their husbands & children. They have done this with a view to downgrade me & my sons Manmohan Singh and Jatinder Singh in social circles.

In this situation I change my last Will, dt. 18.10.93, and ordain that my daughters Amrit & Anita will get nothing out of my estate both movables & immovables.

S/d-

S. Gyan Singh Vohra

S/d-

Ram

Pershad

Rohtagi

21st August, 1994.



I clarify none of my daughters and their people will get anything out of my estate in any form or in any manner.

S/d-

S. Gyan Singh Vohra

S/d-

Varsha Chandra”

- Upon a perusal of the Codicil, it is evident that the Testator mentioned his last Will dated 18th October 1993, which included some bequests to his daughters. However, due to the daughters’ conduct during the first death anniversary of his wife, which he felt brought disrepute to him in social circles, the Testator wrote the Codicil in which he decided to completely disinherit his daughters from any part of his estate, both movable and immovable.

87.5 Purported Fourth Will dated 7th November, 1994

- This is the Will for which the present Testamentary case has been filed seeking letters of administration in respect of this Will. As per the introduction to the Fourth Will, Mr. Manmohan Singh Vohra, and his wife have threatened and coerced him into executing a new Will, taking advantage of the death of his wife.
- As per this Will, the Testator states that he had previously executed a Will in October 1993, which is now revoked. The Will alleges that his son and daughter-in-law began ill-treating him and prevented him from meeting his daughters and sons-in-law. The Will also provides a background relating to the construction of a separate flat at the back of the main house, attributing it to the harassment and fights within the family. The Will further claims that due to the ill-treatment, his wife stopped taking her medicines, leading to her early death. A plot of land



at Sukhdev Vihar is mentioned to be in the name of Mr. Manmohan Singh Vohra. The content of the said Fourth Will is reproduced below:

“

WILL

This is the last WILL and TESTAMENT of S. Gyan Singh, Vohra, Senior Advocate, S/o late Dr. Hazura Singh, R/o A-14, Niti Bagh, New Delhi. I hereby revoke and cancel all former WILLS, Codicils, and Testamentary disposition made by me at any time heretofore and declare this to be my last WILL and Testament.

Whereas I am married, my wife has since predeceased me. I have four children namely:

- a) S. Man Mohan Singh Vohra*
 - b) Mrs. Amrit Kaur (Ameeta Chaddha)*
 - c) Mr. Jatinder Singh Vohra*
 - d) Mrs. Anita Juneja*
- All my children are married.*

And whereas immediately after the death of my wife on 19th September, 1993 and hardly before her ashes cooled down, my son Man Mohan Singh and his wife threatened and coerced me to execute a new WILL totally in their favour. I was so much upset and depressed on account of the death of my wife and they took full advantage of this situation. Under the circumstances, I executed a Will in the month of October, 1993, which I hereby revoke and cancel and declare this to be my last WILL.

And whereas after executing the new WILL, the behaviour and attitude of my son Man Mohan Singh and his wife towards me completely changed and they started ill-treating me. So much, they never allowed me to meet my daughters and sons-in-laws, nor did they like



their visits to my house at Niti Bagh. They insisted that I should break and finish my relationship with them. Their behaviour deeply hurt my feelings.

And whereas after shifting to Niti Bagh from Darya Ganj, I under the compelling circumstances constructed a separate flat at the back side of the main house for my son Sh. Man Mohan Singh and his family. Although the living accommodation at the ground floor of the main building was quite sufficient to accommodate the entire family, but since my son and his wife were always fighting and harassing my wife demanding money all the time, I had no other option, but to construct a separate flat at the back of the main building with a view to live peacefully. Even after shifting to a separate flat, the harassment and interference by my son, Man Mohan Singh did not stop which resulted in the early death of my wife. My wife was so much fed up that she even stopped taking the medicines.

And whereas, I had purchased a plot of land at Sukhdev Vihar, New Delhi in the name of my son Man Mohan Singh. The construction on the said plot was raised by the funds contributed by me. The said house is fetching approx. Rs. 50,000/- p.m. rent.

And whereas, I have made sufficient provisions for the income and comfortable living of my son Man Mohan Singh and his family and he does not deserve anything more to be given, even then I am giving in the ground floor of the back portion of the main building comprising of two bedrooms, one garage converted into a drawing-room and a big lobby.

And whereas, I was allotted a plot of land bearing No. A-14, Niti Bagh, New Delhi by DDA on which a double-storey house has been built by me from my own funds.



I, through this WILL give and bequeath my house No. A-14, Niti Bagh, New Delhi except the back portion of the ground floor to my three children namely; Ameeta Chaddha, Jatinder Singh Vohra, and Anita Juneja in equal shares with all the fittings and fixtures including household effects. They are also entitled to the rent of the first floor and the garage block in equal shares. The back portion as stated above at the back of the ground floor, I bequeath to my son Man Mohan Singh where he is already residing with his family.

All my liquid cash, Bank deposits, jewellery, shares, etc., I hereby give to my four children in equal shares.

I am a tenant of the mezzanine floor in premises No. 17, Neta Subash Marg, Darya Ganj, New Delhi. I bequeath the tenancy rights to my son-in-law Bhupinder Singh, Advocate who is in occupation since 1975.

I am in possession of office accommodation at M-77, Connaught Circus, New Delhi and also I have a Lawyer's Chamber-31, in the Delhi High Court. I bequeath the same to my son Man Mohan Singh including Law Libraries.

I have a car which belongs to me. I bequeath the same to my all four children.

IN WITNESSES WHEREOF, I said Gyan Singh Vohra, the Testator, have put my signatures on this my WILL on each sheet on this the 7th day of November, 1994."

88. The question is whether the Fourth Will dated 7th November, 1994 is valid, genuine or forged & fabricated. The issues framed in this matter are as under:



1. *Whether the Will dated 07.11.1994 was validly executed by Late S-Gyan Singh Vohra? OPP*
2. *Relief.*
3. *Whether the registered Will dated 18.10.1993. and codicil dated 21.08.1994 were the last testamentary disposition executed by Sardar Gyan Singh Vohra? OPR*

89. A perusal of the above issues shows that the Court in the present petition is not only to determine the validity of the Fourth Will dated 7th November, 1994 but also whether the registered Will dated 18th October, 1993 and the Codicil dated 21st August, 1994 were the last testamentary dispositions of the Testator Mr. Gyan Singh Vohra. The existence of the earlier Wills, i.e., the First, Second, and Third Wills, along with the Codicil, though objected to by the Petitioners in their pleadings, were not objected to during oral submissions.

90. The Court has examined the pleadings, the original Wills, the evidence presented, and has also heard the oral submissions of the parties. The Testator had four children:

- Mr. Manmohan Singh Vohra, the son
- Mr. Jatinder Singh Vohra, the son
- Smt. Amrit Kaur, the daughter
- Smt. Anita Juneja, the daughter

91. The Testator owned one immovable property at A-14, Niti Bagh, New Delhi, where he lived with his son Mr. Manmohan Singh Vohra and his family. Some portions of the subject property located at Niti Bagh were



rented out, but the consistent fact that emerges from the record is that on the ground floor in the front portion, he lived with his wife along with his son Mr. Manmohan Singh Vohra and his family. As the family grew, the rear portion was constructed where the son lived with his family.

92. After his wife's death, Mr. Manmohan Singh Vohra moved into the front portion once again. Some portion of the garage was also rented out, and the first floor of the property was also rented out, with the rent being earned by the Testator.

93. There is consistency in the first three Wills insofar as Mr. Manmohan Singh Vohra, Mr. Jatinder Singh Vohra, and their families are concerned. In none of the Wills, except the Fourth Will, was any portion of the Niti Bagh property given to either of the daughters. Even in the First Will dated 29th February, 1992, which was during the lifetime of his wife, only a life estate was given to the wife without the right to sell and thereafter the said property was to vest in the two sons.

94. One of the witnesses, OW-2 Mr. Ram Pershad Rohtagi, is the Court clerk of the Testator. He and other witnesses have clearly deposed that the Testator and his son Mr. Manmohan Singh Vohra had a law practice which was common to them. They were operating from the same offices and the same chamber in the High Court. They commuted together from the residence to the Court. There is no credible evidence from any witness that Mr. Manmohan Singh Vohra and his wife ill-treated the Testator. Apart from the Court clerk, OW-1 Mr. Darshan Singh Vohra, the brother of the Testator, has stated clearly that there was no ill-will or lack of cordiality between the Testator and his son Mr. Manmohan Singh Vohra. Certain factors stated by OW-2 indicate that he had personal knowledge and visited the residence quite



regularly. All the witnesses admit that the death of the Testator's wife had considerably upset Mr. Vohra, and the souring of the relationship with the daughters took place after her death.

95. The analysis of the evidence reveals clearly to the Court that in all the first three Wills and the Codicil, there is a specific pattern followed by the Testator viz.,

- vesting the Niti Bagh property in different portions to the two sons and
- bequeathing some part of the movables, cash, etc., to the daughters.

In the first three Wills, he consistently appointed his sons and wife (in the first Will) as the executors of the respective Wills. This shows that he trusts them to manage and distribute his estate according to his wishes. In the first Will, the Testator expresses his fondness for his daughters and expects his wife to suitably take care of them during her lifetime. Even after the wife's demise, in the Second Will, which is unregistered, some bequests were made by the Testator to the daughters, though the language of the said Will does not reflect continuous fondness. The tone and tenor of the Second and Third Wills are similar, with few changes, but the Testator broadly maintains the pattern of bequeathing immovable property to the sons and shares in movables/cash to the daughters. However, in the Fourth Will, no executors have been appointed by the Testator, which is a clear break from the usual practice adopted by the Testator.

Circumstances leading to the Codicil dated 21st August, 1994

96. The turning point, however, is the Codicil dated 21st August, 1994. The Codicil was handwritten by the Testator and reveals enormous pain and sorrow. The publication in the Hindustan Times (extracted above) is the background of the Codicil, which does not require any corroboration. The



original newspaper has been placed before the Court. A perusal of the said public notice in the Hindustan Times shows that the circumstances surrounding the first death anniversary included one function organized by Mr. Vohra, the Testator, his son, and other relatives. However, the daughters sought to organize the entire first death anniversary function in a Gurudwara at 5:00 am. The notice did not even mention the name of the Testator or the names of the two sons and their families as the persons organizing or publishing the notice, thus causing significant distress to the Testator. The name of the Testator was mentioned only to describe Smt. Sushil Kaur Vohra i.e., the mother as his wife. In the context of the family and cultural background of the Testator, it was felt quite unusual for daughters to separately organize a first death anniversary or *Varina* of the mother to the exclusion of the father & the brothers. This was the second *Varina* ceremony after the first *Varina* ceremony organized by the husband/Testator & the two sons. In this second ceremony, excluding their father who was alive as also the brothers and their families, the Testator naturally took umbrage to such a publication and organization of such a program. From the language of the Codicil, the Testator clearly felt humiliated. PW-3 testified that her father had approved of her second *Varina* ceremony which has not been proved on record and in fact, the said second *Varina* ceremony caused pain and sorrow to the father which has been expressed in the Codicil.

97. The Testator was an accomplished Senior Advocate of the Delhi High Court. From the evidence, it has also emerged that he had an excellent stature in society. He held responsible positions within the Sikh community and enjoyed enormous goodwill in the legal profession, social circles, and the



community. The fact that a holiday was declared in the Delhi High Court upon his death is undisputed and establishes the standing he enjoyed.

98. For such a person, the independent organization of his wife's death anniversary by his daughters and sons-in-law, without his involvement, and that too publication of the same in a leading Delhi newspaper was completely intolerable. He perceived this as a personal affront and a challenge to his stature as the husband of Smt. Sushil Kaur, whose death anniversary function was being organized. Such a publication by the daughters and their husbands offended the Testator. The Petitioners' submission that it was a favorite Gurudwara of the Petitioners' mother and was organized with Mr. Vohra's permission is not clearly supported by the evidence on record by any other witness, except for PW-3. Moreover, this publication, when seen with other surrounding facts such as the absence of the daughters from the first death anniversary function organized by Mr. Vohra and Mr. Vohra not attending Mrs. Amrit Kaur's son's wedding and asking other relatives not to attend, clearly indicates that the relationship between the father and the daughters had completely deteriorated after the death of Smt. Sushil Kaur. Further, as per OW-2 Mr. Ram Pershad Rohtagi the said event is said to have affected the Testator to such an extent that he passed away within five months of the said *bhog* ceremony.

Lack of Evidence of Ill-Treatment of the Testator by Mr. Manmohan Singh Vohra.

99. The Petitioners have not been able to adduce any evidence to show that Mr. Manmohan Singh Vohra and his wife had ill-treated the Testator. In fact the evidence is to the contrary as the pattern in the Fourth Will is completely contrary to the other Wills, which have been executed and registered. In the



first three Wills, the bequests are very crisp, and the reflection of emotion is minimal, except in the last Codicil, which was expected due to the nature of the circumstances in which such Codicil was written. However, in the Fourth Will propounded by the Petitioners, there is a long background given as to why a particular bequest is being made. The evidence of Mrs. Anita Juneja, that her brother and *bhabhi* are greedy and that the brothers are not on speaking terms, is not supported by the evidence. In fact, she could not recall even a single incident where Mr. Manmohan Singh Vohra and his wife had ill-treated her father or mother. The only corroboration she could provide was alleged telephonic conversations with her mother during her lifetime. Importantly, she could also not produce any photo album of Amrit Kaur's son's wedding to show that her father had attended the event. The lack of any narration of ill-treatment incidents, the non-production of any photo to show the father's attendance at Amrit Kaur's son's wedding, the organization of the *bhog* ceremony of the first death anniversary without inviting the brothers, and the non-identification of her brother's writing, i.e., Mr. Jatinder Singh Vohra, all indicate that the narrative set up by the Petitioners is not supported by the evidence.

100. The evidence of Mr. Darshan Singh Vohra also supports the fact that there was no ill-treatment by Mr. Manmohan Singh Vohra and his family. Apart from the evidence of Smt. Anita Juneja, no independent witness has been adduced to show any ill-treatment.

101. Both Mr. Shiv Nath Mehra and Mr. Rana, being clients of Mr. Bhupinder Singh, whose wife was the beneficiary in the final Will, lack credibility. They had no connection or relationship with the Testator and it is unlikely that the Testator would have asked them to witness his Will. Even the



circumstances given by the witnesses lacked credibility as they did not meet the Court clerk Mr. Ram Pershad Rohtagi when they purportedly visited the Testator's chamber, which is very unlikely considering the trust reposed by the Testator in his Court-clerk. For instance, PW-2 T.S Rana deposed as follows:

“Ques. What actually transpired in the chamber?”

Ans. He told me that two more persons namely Sh. Shiv Nath Mehra and Sh. Anil Kapur were likely to come. Thereafter he wrote a Will and shown the same to me. Sh. Gyan Singh Vohra appended his signatures on Will in front of us and at that time Sh. Shiv Nath Mehra and Sh. Anil Kapur had also come.

Ques. Who else were present in the chamber of Sh. Gyan Singh Vohra besides Sh. Shiv Nath Mehra, Sh. Anil Kapur and yourself?

Ans. None”

Further, PW-1 Shiv Nath Mehra deposed as follows:

*“When I signed the Will I was sitting in front of Sh. Vohra on a chair. **And at that time none else except myself and two other witnesses were present in the office.** These two witnesses were also sitting on the chair. I signed my affidavit in the High Court. I also went to the office of the Oath Commissioner.”*

102. In fact, the Court-clerk, Mr. Ram Pershad Rohtagi has stated in his testimony that the Testator had wept in front of him, when he saw the publication by his daughters. Thus, it is again unbelievable that the Testator would have executed a Will without the knowledge of the court-clerk.

103. On the other hand, the Will dated 18th October 1993 is a registered Will, which has been proven by the Court clerk- Mr. Ram Pershad, Mr.



Rajesh Kumar, Mr. G.S. Bindra, and Mr. Ishwar Chand Garg. All these persons are unrelated to the family. In fact, the registration of the Will dated 18th October, 1993, registered on 20th October, 1993, is fully supported by the independent evidence given by Mr. I.C. Garg, an advocate who witnessed the registration.

104. Mr. Shiv Nath Mehra was one of the witnesses to the Fourth Will propounded by the Petitioners. However, he and Mr. Rana were both clients of Mr. Bhupinder Singh, the husband of Smt. Anita Juneja. They had no direct relationship with the Testator, and the version given by them that Mr. Vohra asked Mr. Bhupinder Singh to call them clearly appears to be far-fetched. The background given in the said Fourth Will, lacking any corroboration, raises doubts about the genuineness of the said Will. Witnesses to the first three Wills were known to the Testator specifically and called by the Testator himself, but for the alleged Fourth Will the witnesses were unknown to the Testator.

The Codicil dated 21st August, 1994 is genuine

105. Firstly, the Codicil is handwritten by the Testator, and this handwriting has been authenticated by credible witnesses, including the Court clerk Ram Pershad Rohtagi, who had extensive knowledge of Mr. Vohra's handwriting. The Court has also compared the handwriting in the Codicil with Mr. Vohra's personal diary, confirming its authenticity. The verification of the attesting witnesses, Ms. Varsha Chandra (Testator's junior associate) and Mr. Ram Pershad Rohtagi (Testator's Court clerk), who have no personal stake in the matter (as they are not the beneficiaries under any of the Wills), further strengthens the credibility of the Codicil. Moreover, the Codicil was written due to specific, independently verifiable events that appear to have caused



significant emotional distress to the Testator. The publication of the first death anniversary notice of his wife by his daughters and sons-in-law, which excluded his and his sons' names, was a public affront to Mr. Vohra. This act, perceived as a severe disrespect, is well-documented by oral and documentary evidence and aligns with the Testator's reaction as described in the Codicil. 106. In contrast, the Fourth Will lacks such corroboration. The witnesses to the Fourth Will, Mr. Shiv Nath Mehra and Mr. T.S. Rana, as already stated were clients of the Petitioners' husband. Moreover, the Fourth Will includes a lengthy background context/narrative that does not have any independent verification and seems to be created to support the Petitioners' claims rather than reflecting the genuine intent of the Testator.

107. The Court clerk's testimony (OW-2), which provided details about the Testator's life and the circumstances leading up to the Codicil, has withstood rigorous cross-examination. In contrast, the Petitioners failed to produce any independent witnesses to support the authenticity of the Fourth Will.

Credibility of the Testimony of Mr. Ram Pershad Rohtagi (OW-2)

108. Throughout the case, the evidence of the Court clerk has withstood cross-examination. OW-2 knew minute details relating to Mr. G.S. Vohra, including the historical background of the family and how Mr. Vohra had grown his practice. The manner, in which OW-2 described the Testator and narrated specific incidents relating to the Testator, demonstrated that the said witness was an extremely credible witness who had knowledge of the personal and professional life of the Testator. OW-2, in fact, proved all the first three Wills as also the Codicil. He knew details relating to the Testator's son, his first marriage, divorce proceedings, daughter's nick name etc. which can only be known by a person, who is closely associated with the family.



109. He knew the details of the First Will dated 29th February 1992, which he had witnessed. He also knew of the execution of the Second Will dated 8th October 1993. He was aware of the Codicil, which he had countersigned. He stated that when Mr. Vohra saw the Hindustan Times publication by the daughters, he had, in fact, cried. In his testimony, he states as follows:

“Q: How do you know that Mr. Gyan Singh Vohra did not pay anything for the Paath carried out on 19-08-1994? (Objected to by ld. counsel for objector.)

A: Mr. Gyan Singh Vohra was very annoyed due to the said Paath carried out on 19-08-1994 and he used to cry.

Mr. Gyan Singh Vohra cried in front of me also. It is wrong to suggest that Mr. Gyan Singh Vohra was not at all annoyed.

Q: Do you have any evidence to prove that Mr. Gyan Singh Vohra had not spent any money towards the expenses incurred at Shahji Gurudwara on 19.08.1994? (Objected to by ld. counsel for objector.)

A: Some things are oral and no evidence as such can be produced.”

110. Additionally, OW-2's testimony lends credibility to the Objectors' narrative that Mr. Vohra maintained a close and cordial relationship with his son, Mr. Manmohan Singh Vohra. The Court clerk refuted claims of ill-treatment by providing detailed accounts of their daily interactions, their shared legal practice, and the mutual respect that they had for each other. OW-2 had specific knowledge about the office arrangements, the division of responsibilities, and the Testator's work ethic. He also confirmed the execution of the earlier wills and the Codicil, reinforcing that the Testator had



made bequests that favored the sons for immovable properties while allocating movable assets to the daughters. He also confirmed that the Testator had no role in organizing the *bhog* ceremony at Shahji Gurudwara, Lajpat Nagar.

111. OW-2 who worked with the Testator since 1949 proved all the previous instruments executed by the Testator i.e., the First, Second and Third Wills and the Codicil. He knew the persons, who were the witnesses in those Wills and the manner in which they were known to or related to the Testator. He, in fact, did not know of Mr. Tejinder Singh Rana. His detailed knowledge of the Testator's family, professional relationships, and the details of his previous wills contrasts sharply with his lack of recognition of Mr. Rana. This is significant because it suggests that Mr. Rana was not part of the Testator's usual circle, raising further doubts about the authenticity of the Fourth Will. He also could not identify the signatures of Mr. Anil Kapur (common attesting witness to the Third and Fourth Will). This adds to the fact that the Fourth Will is highly suspect, as OW-2 from his testimony appears to be knowing almost everyone related or working with the Testator.

112. OW-2 also negates the testimony of PW-3 that the Testator and his brother – Darshan Singh Vohra had a bad relationship. In fact, he knew the brother of the Testator, and stated that OW-1 i.e., the Testator's brother used to visit the Testator's chamber sometimes. He knew of the distant relationship between Mr. Mahender Singh Oberoi and the Testator, who was the witness to the First Will.

113. The independent witnesses i.e., Mr. G.S. Bindra and Mr. I.C. Garg both knew the Testator independently of Mr. Manmohan Singh Vohra. Mr. G.S. Bindra confirmed the fact that the Testator and his son would travel to the



High Court every day. He had never seen any altercation between them. Mr. I.C. Garg, in fact, makes an interesting observation in his cross-examination about the Sub-Registrar knowing Mr. G.S. Vohra, when he appeared for registration of the Third Will dated 18th October, 1993. The same reads as under:

“When the said Will came to me, it was already typed and signed (sic) by Shri Gyan Singh Vohra and said two witnesses. I was witness to the registration of the said Will. Shri Gyan Singh Vohra also met me casually before 18th October 1993 as well when he was coming to me in Sub-Registrar Office, Asaf Ali Road and thereafter in INA. Sometimes he used to come for the purpose of obtaining certified copies of the sale deeds and other documents. He used to come once or twice in a year. I can recognize him. I can also tell his description. He was short statured. He was not using walking stick. It is wrong to suggest that Shri Gyan Singh Vohra never came to me. It is also wrong to suggest that I cannot identify him.”

114. This evidence, in fact, goes to show that Mr. I.C. Garg had no personal interest in the matter, and thus is a credible witness. He was an advocate with whom Mr. Vohra did not have an everyday relationship but he used to engage him for professional services.

115. On the other hand, witnesses PW-1 and PW-2 are not credible witnesses. On the one hand PW-1 stated that Mr. Bhupinder Singh had drafted the Fourth Will, and on the other hand, PW-2 had stated in his cross-examination that the Testator had informed him that subject Fourth Will had already been drafted by the Testator. There is a clear contradiction in how PW-1 and PW-2 deposed regarding the fact whether the Testator had even drafted the said Will or not. This is in clear contrast to the consistent



testimonies of OW-1 and OW-2 that the Testator used to draft his Wills on his own, or would dictate the same to the typist, who would then type the Will. This also goes in line with the character of the Testator, who was admittedly an independent person, and thus it was unlikely that he would let Mr. Bhupinder Singh draft the said Fourth Will.

Consistency of Mrs. Haveen Kaur Vohra's testimony

116. Insofar as the testimony of Mrs. Anita Juneja and Mrs. Harveen Vohra is concerned, Mrs. Harveen Vohra's evidence comes across as more natural and credible. She confirmed the presence of the daughters at the *bhog* ceremony immediately after the death of their mother and mentioned that Rs. 10,000/- was given to them. She also provided minute details about the hospitalisation of Mr. Vohra and his wife. Her evidence is crystal clear regarding how they were being cared for in the hospital. These details establish to the Court that Mrs. Harveen Vohra resided with her in-laws and took care of them as well. The allegation in the Will propounded by the Petitioners, that she had stopped medications to her mother-in-law, appears to be incorrect.

117. In contrast, the credibility of PW-3 Mrs. Anita Juneja's testimony, is doubtful as she even denied recognizing her brother's signatures. Furthermore, her allegation that the daughter-in-law, Mrs. Harveen Kaur Vohra, ill-treated the parents is not supported by the evidence. It has been shown by the evidence of several witnesses that both the son and daughter-in-law stayed with the Testator in the hospital and were by his side when he passed away. Thus, PW-3's testimony contains several factual inaccuracies.



118. Additionally, PW-3's claim that the father and son had a poor relationship is contradicted by OW-1 Mr. Darshan Singh Vohra, the Testator's brother, and other witnesses, including the Court clerk OW-2, who have categorically stated that the Testator regularly traveled to and from the Court with his son. They lived in the same premises, and the son and his family took care of the Testator and his wife during their hospitalisation. In fact, OW-5 Mrs. Harveen Kaur Vohra provided detailed testimony on the hospitalization and medication, indicating her personal knowledge of the medical conditions of both the Testator and his wife, who were her in-laws.

119. The submission of Mr. Malhotra, Id. Sr. Counsel, that having a separate kitchen reflects ill-treatment by the son and daughter-in-law may initially seem persuasive. However, after reviewing the evidence, this Court is of the opinion that the construction of a small unit at the rear of the property might have been a step taken by Mr. Vohra to make his son, daughter-in-law, and their family more comfortable so that the grandchildren could have their own space, as any father or grandfather would do. Moreover, the so-called kitchen, as emerged from the evidence, was a small pantry. Either way, the mere separation of the kitchen does not persuade this Court to believe there was ill-treatment, especially since after Mrs. Vohra's death, Mr. Manmohan Singh Vohra and his family had moved to the front side of the house along with Mr. Vohra. The evidence also indicates that Mr. Manmohan Singh Vohra was financially independent and actively involved in the Testator's professional affairs. Mr. Ram Pershad Rohtagi confirmed that Mr. Manmohan Singh Vohra had his own practice and income, which challenges the narrative that he and his wife were financially dependent on or ill-treated the Testator.



120. Mrs. Anita Juneja's version that Mr. Manmohan Singh Vohra had got blank papers signed and had the Wills typed is not supported by the record, as two of the said Wills are registered Wills. The Will dated 18th October, 1993 has been proved beyond reasonable doubt. The pattern of bequests in this Will is the same as in the Second Will dated 8th October, 1993. The three Wills show the predominant intention of the Testator as being that the Niti Bagh property ought to be vested in both sons.

121. PW-3's testimony, stating that the Testator consented to a second *bhog* ceremony, is also incorrect as the Testator did not attend this ceremony; even the sons were not invited. Contrary to her claims, the Codicil speaks the exact opposite that the second ceremony caused enormous anguish to the Testator. Moreover, PW-3 states that the two brothers did not have a good relationship, which contradicts the content of the physical letters written by Mr. J.S. Vohra, wherein he refers to his brother and his family quite affectionately.

122. Further, PW-3's testimony that her brother i.e., Manmohan Singh Vohra did not have any clients independently has been dislodged by OW-2 the Court clerk, who named specific clients of Manmohan Singh Vohra. He knew as to when the second son i.e., Jatinder Singh Vohra had left for US, a fact that would be known to a close family member or an associate.

123. On the whole, as compared to the testimony of PW-3 Mrs. Anita Juneja, the evidence of Mrs. Harveen Kaur Vohra comes across as more natural and credible.

Mistakes in the purported Fourth Will

124. In contrast, the Fourth Will propounded by the Petitioners has basic grammatical and spelling mistakes, which seem uncharacteristic of Mr.



Vohra, who was a postgraduate in English. Such mistakes do not exist in the other three Wills.

125. There are other various discrepancies in the Will dated 7th November 1994. In this Will, there is no mention of the *two* Wills of October 1993, only *one* Will of October 1993, and no mention of the Codicil. The Codicil, in fact, was signed by a lawyer associate Ms. Varsha Chandra with no personal interest in the matter. It is also handwritten, and its absence from the purported Fourth Will that is being enforced is extremely significant because PW-3 and her husband were not aware of the Codicil's execution. If the Testator had himself signed and executed the Fourth Will, it would be implausible for him to not address the execution of the Codicil. It also appears that since the Petitioners were not aware of the unregistered Will dated 8th October 1993 and the Codicil, they chose to leave the same ambiguous in the propounded Fourth Will. This glaring fact strongly supports the argument that the Fourth Will is a fabricated document.

126. A perusal of the Codicil shows that the Testator took great care in writing it two days after the *bhog* ceremony organized by the daughters at Shahji Gurudwara. The Codicil aligns with the publication made in the Hindustan Times. Thus, the Codicil dated 21st August, 1994 provides context, and is a connecting link to the events that took place prior to and after the death of the Testator's wife. In the diary placed before the Court as Ex. OW-5/1, there is a clear mention of the execution and registration of the Will dated 18th October 1993. This diary includes various personal details, such as the birth dates of grandchildren, telephone numbers, medical issues, details of NSE deposits, FDR details, and rentals collected. Thus, the diary is also independent corroborative evidence.



127. In addition, the original letters sent by Mr. J.S. Vohra by airmail, with even the envelopes filed on record, show the family's sentiments. These letters corroborate the sentiments expressed by the second son, who was living in the US. The envelopes with the airmail stamp enhance the credibility of these letters. One relevant letter, dated 31st August 1994, is extracted below:

"August 31, 1994

Dear Papaji,

We are in receipt of your letter, and are pleased to read you are all fine. We are particularly happy that your health is improving.

It appears ammiji's bhog ceremony was well attended. In a way, it was nice the girls did not show up; their presence would only have tarred an otherwise solemn occasion. Like you all, Neelu, Kabir and I miss ammiji so much.

I am returning their stupid ad; its obscenity is reflected in its typographical error (1993 instead of 1994). Who in their right minds would have shown up at 5:00 AM, not to mention to offer condolence to a bunch of greedy rascals! Time will tell – their children will copy and do the same to these two girls (and their idiotic parents) what their idiotic parents are doing. They will not escape their nasty fate.

I am returning the advertisement, as well as a copy of the codicil. I plan to review the previous Will and will send you suggestions in the near future. Those two do not deserve anything, in view of what they have done. They are not even remorseful. I wonder whose idiot advice they are listening to (in addition to their foolish husbands).



Kabir is fine and growing to say more complete sentences. The weather is turning colder. It was a very nice summer here.

We will telephone you this weekend. Love to MSV, Harveen, Shelley and Bawa.

Affectionately,

Jatinder”

128. From the above letter, the nature of the relationship that the Testator enjoyed with his second son is also evident.

129. The above documentary evidence plays a pivotal role in corroborating the Testator's genuine intentions and mindset at the time of drafting the Third Will and Codicil. The personal diary, which includes meticulous entries about the Testator's daily life, personal sentiments, and financial matters, serves as a significant piece of evidence. Letters written with genuine concern and emotion, reflect the ongoing communication and relationship between the Testator and his son- Jatinder Singh Vohra. Such correspondence demonstrates the sentiments expressed in the Codicil regarding the exclusion of the daughters from his estate. The specificity of these documents contrast starkly with the Petitioners' claims and the content of the Fourth Will.

130. Various facts contained in the Fourth Will have not been proved by either documentary evidence or by any oral evidence. In fact, the entire purported Will itself appears to be clearly suspect. This is due to several reasons such as: wrong capturing of facts, omission of the Codicil, grammatical errors, legal errors, presence of language which is atypical to the Testator, nature of bequests, wild allegations contained in the Fourth Will against the son and daughter in law, contrary to the language used in the



earlier instruments 29th February, 1992, 8th October, 1993, 18th October, 1993 and the Codicil dated 21st August, 1994.

131. Unlike the detailed and personal nature of the diary and letters, the Fourth Will lacks independent verification and contains inconsistencies that raise doubts about its authenticity. The fact that the relationship with his daughters had deteriorated is also evidenced by the Testator requesting his brother and his Court-clerk not to attend the daughter's son's i.e., grandson's wedding. Such an occasion would not have been missed by the Testator for any small squabbles but only if he was totally anguished and upset by the daughter's conduct. Moreover, the testimony of PW3 that he attended the wedding is falsified as no photograph could be produced to establish the same.

132. In fact, no proof was adduced to contradict OW-1 Darshan Singh Vohra's testimony that the Testator had asked his close family members not to attend the wedding of his grandson i.e., son of Smt. Amrit Kaur. Both OW-1 and OW-2 stated that they were not able to attend the said wedding and no photographs have been produced to the contrary. In fact, PW-3 initially agreed to produce the album as directed vide order 27th March, 2010 and thereafter, claimed that the album was itself misplaced. OW-1 corroborates that the allegation against the Testator's son and daughter in law, as contained in the Fourth Will, was false.

133. Overall, this Court is of the opinion that the Will dated 7th November, 1994 is not a genuine Will, and is a self-suited and created/fabricated Will. The narration in the said Will is also not supported by any independently corroborated evidence. This Court, accordingly, holds that the Will dated 18th



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October, 1993 read along with codicil dated 21st August, 1994 is the last Will and testament of the Testator Mr. G.S. Vohra.

134. The question as to whether the Fourth Will was executed by the Testator in a sound state of mind or even suspicious circumstances need not be considered as the said Will itself seems to be clearly fabricated and a concocted Will, purely to serve the purpose of the Petitioners.

135. Thus, in relation to the first issue, this Court holds that the Fourth Will dated 7th November, 1994 was not validly executed by the Testator, and is a forged and fabricated Will. On the second issue, the Petitioners are not entitled to any relief. Accordingly, the third issue is answered in favour of the Objectors/Respondents.

136. The registered Will dated 18th October, 1993 and Codicil dated 21st August, 1994 are declared as the last testamentary disposition of the Testator-Sardar Gyan Singh Vohra.

137. The present petition is, accordingly, dismissed. All pending applications are also disposed of. Interim order dated 29th February, 1996 stands vacated. No order as to costs.

138. Let all the original documents including all the Wills and other documents be re-sealed by the Registry for safe-keeping.

PRATHIBA M. SINGH
JUDGE

JULY 16 ,2024
dk/dn