

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****122****RSA-849-2024 (O&M)****Date of decision: 09.12.2025****Shakuntla****...Appellant(s)****Vs.****Dhara Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Abhishek Dhull, Advocate as Legal Aid counsel
for the appellant.

NIDHI GUPTA, J.**CM-3206-C-2024**

Prayer in this application filed under Rule 5(2), Chapter 1-A,
Volume 5 of Punjab and Haryana High Court Rules & Orders r/w Section 151
CPC for condonation of delay of 27 days in re-filing the accompanying
appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly
supported by an affidavit of the applicant/appellant, the same is allowed
and delay of 27 days in refiling the appeal is condoned.

RSA-849-2024 (O&M)

Present Second Appeal has been filed by the plaintiff against
the judgment of reversal dated 15.11.2023 passed by the Additional



District Judge, Jhajjar; whereby Civil Appeal filed by the defendants No. 1, 4 and 5 has been accepted, and suit of the plaintiff has been dismissed.

2. Brief facts of the case are that the plaintiff had filed the instant civil suit seeking declaration as co-owner in possession of suit property as described in the plaint; **and** further the Will dated 16.05.2001 and Mutation No. 2669 are illegal, null and void; **and** for permanent injunction. It was pleaded in the plaint that plaintiff is the real daughter of Sh. Surat Singh son of Sheo Karan; and defendants No.1 to 4 are his real sons; and defendant No. 5 is his real daughter. It was alleged that suit property is coparcenary in nature. Thus, plaintiff and defendants are having share in the suit property by birth. However, defendants No.1 to 4 on the basis of a forged Will dated 16.05.2001 had got transferred suit property in their favour; whereafter in collusion with Revenue Patwari, Mutation No. 2669 was sanctioned in their favour on 28.04.2004. The appellant had further averred in the plaint that testator Surat Singh at the time of execution of Will, was 89 years old and had no sense of his good or bad and was unable to see or hear properly. It was alleged that defendants had got prepared the Will dated 16.05.2001 to grab the share of the plaintiff. With these pleadings, present suit was filed on 31.05.2015.

3. Upon appraisal of the pleadings and the evidence led by the parties, the Id. Civil Judge (Junior Division), Jhajjar had decreed the suit of the plaintiff with costs vide judgment and decree dated 06.04.2018 declaring “.....that the Will No.3/77 dated 16.05.2001 and Mutation No. 2669 are illegal, null and void and have no value in the eyes of law”.



However, the Civil Appeal filed by the defendants No. 1, 4 and 5 was accepted by the learned Additional District Judge, Jhajjar and suit of the plaintiff was dismissed with costs vide judgment and decree dated 15.11.2023. Hence, the present second appeal by the plaintiff.

4. Learned counsel for the appellant submits that the learned First Appellate Court erred in setting aside the well-reasoned judgment of the learned Trial Court without appreciating that the Will in question was surrounded by suspicious circumstances; *in-as-much* as there was no explanation given by the testator Surat Singh for excluding his daughters i.e. the plaintiff and defendant No.5, from inheritance of the suit property. It is submitted that only vague writings have been made in the Will that enough amount had been spent on the *chhuchhak* and *bhat* ceremony at the time of marriage of daughters. However, the said averments are unsubstantiated and as such, constitute no ground for excluding the appellant from her rightful inheritance. Thus, it is proved that the impugned Will is a forged and fabricated document which ought to have been set aside. Moreover, plaintiff had produced sufficient evidence in support of her case, which has been disregarded by the learned First Appellate Court. It is accordingly prayed that the appeal may be accepted and judgment and decree dated 15.11.2023 passed by Id. Additional District Judge, Jhajjar may be set aside and the judgment and decree dated 6.4.2018 passed by Id. Civil Judge Junior Division, Jhajjar may kindly be upheld.



5. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellant.

6. The record reveals that the categorical pleaded case of the appellant in the plaint is that the suit property is ancestral in nature; and therefore, plaintiff had a right in the suit property by birth; and thus, Surat Singh was not competent to execute the impugned Will. However, from comprehensive evidence on record, it was proved that the suit property is not ancestral in nature. Plaintiff herself had tendered on record certified copy of Mutation No.769 Ex.P14, which is mutation of inheritance of Sh. Sheo Karan son of Sh. Mohra vide which the property came into inheritance to Surat Singh, Mansa Ram, Hoshier Singh, Smt. Bharto and Smt. Bharti. Except for this document, plaintiff had not produced any other evidence to prove the ancestral nature of the property. As such, from Ex.P-14 it was only proved that Surat Singh had inherited the suit property from his father Sheo Karan. However, the plaintiff was unable to prove the 4 lineal stages. Thus, suit property would be considered self acquired property of Surat Singh. Therefore, Surat Singh was duly competent to execute the impugned Will. During arguments, this fact has not been disputed by learned counsel for the appellant. In view of the said admitted position, as suit property was not proved to be ancestral, and was therefore, self acquired property of Surat Singh, he was competent to execute the Will dated 16.05.2001.



7. It has next been contended on behalf of the appellant that the Will Ex.P1 is surrounded by suspicious circumstances. The only argument raised by learned counsel for the appellant to show the alleged “suspicious circumstances” is that no cogent reasons have been given for disinheriting the appellant in the Will dated 16.05.2001. However, the said assertion of the appellant is factually incorrect. It is clearly mentioned in the Will that testator Surat Singh had got married his daughters including the plaintiff by incurring huge expenses on their marriages and other ceremonial functions like *chhuchhak* and *bhaat*. It is my view that the learned Trial Court erred in holding that the said reason is not sufficient to exclude the plaintiff and defendant No.5 from the benefits of the property of the testator, in view of the fact that as suit property is not HUF/coparcenary, in actual fact, Plaintiff has no locus standi to challenge the impugned Will. The suit property being self acquired property of the testator, he was free to dispose it of in any manner that he deemed fit.

8. Furthermore, the Will in question was proved by the defendants by examining attesting witness DW5 Bharat Singh and Scribe DW4 Mangat Ram Saini, Advocate. Moreover, the Will in question was a registered Will. Thus, presumption of truth is attached to the same. Thus, it cannot be said that the same is surrounded by suspicious circumstances.

9. Contention of the appellant that Surat Singh was not in a sound disposing mind at the time of executing the Will remained unsubstantiated as the appellant had not produced any medical record whatsoever to support her said assertion. Moreover, DW4 and DW5 have

specifically and categorically deposed that Surat Singh was in good mental health at the time of execution of the Will and was having sound mental faculty to understand his good and bad. They further deposed that Surat Singh had executed the Will of his own free will; and that the Will was read over to him by the Scribe DW4; and which was signed by him after understanding the same in the presence of attesting witnesses. Thereafter, he went to the office of Registrar concerned to get the Will registered.

10. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

11. In view of the above discussion, the judgment and decree dated 15.11.2023 passed by Id. Additional District Judge, Jhajjar is upheld; and the judgment and decree dated 6.4.2018 passed by Id. Civil Judge Junior Division, Jhajjar is set aside. The present Regular Second Appeal is hereby **dismissed**.

12. Pending applications, if any, stand disposed of.

09.12.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No