



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

**Reserved on 30th of July, 2025
Pronounced on 15th of October, 2025**

RSA No.1063 of 2020 (O&M)

Parveen Parkash Kanwal alias Kiddy Lal

....Appellant

Versus

Sneh Sierra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Amit Jain, Senior Advocate with
Mr. Anupam Mathur, Advocate
for the appellant.

Mr. Gulzar Mohd. Advocate
for respondent No.1.

Mr. Rajesh Gupta, Advocate
for respondent No.3.

Mr. Himanshu Sharma, Advocate
for respondent No.5-PNB.

Mr. Munish Gupta, Advocate
for respondent No.10.

PANKAJ JAIN, J.

Plaintiff is in second appeal. For convenience, the parties hereinafter are referred to as by their original position before the Court of the First Instance i.e. the appellant as ‘plaintiff’ and the respondents as ‘defendants’.



2. The issue relates to estate left by Chhajju Singh Kanwal, father of the plaintiff/appellant. Primary dispute is between brother (plaintiff) and sister (respondent No.1).

3. Plaintiff filed suit for declaration to the effect that he is co-owner in joint possession of the properties left by late Chhajju Singh Kanwal their father and that the WILL dated 21.06.2010 propounded by defendant No.1 claimed to have been executed by late Chhajju Singh Kanwal, is illegal and fabricated document.

4. The Court of the First Instance found that respondent No.1 failed to dispel the suspicious circumstance surrounded by the WILL, observing as under:

“22. Firstly, no reason has been mentioned by the testator as to why he wanted to bequeath his property to his daughter Snehabha Sierra/defendant No. 1. Defendant No.1 in her written statement pleaded that plaintiff and defendant No.3 had no cordial relation with Chhajju Singh Kanwal since long. Chhajju Singh Kanwal was looked after and served by her, during his life time. Admittedly defendant No. 1 got married in the year 1983 and she has been residing abroad permanently since her marriage. This very fact has been admitted by defendant No.1 while she appears as DW4. She also stated that in the year 2010 Chhajju Singh Kanwal was hospitalized and she did not attend her father in the hospital. When defendant No.1 use to reside abroad since 1980, how he could looked after and served her father Chhajju Singh Kanwal. It is not the case of defendant No. 1 that she assisted her father financially. Moreover, Chhajju Singh Kanwal was financially sound and he did not require financially assistance during his life time. This very fact has been corroborated by DW1 Ram Kishore Ram Karan Tiberwala, C.A. who gave detail

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regarding the property owned by Chhajju Singh Kanwal. So, defendant No.1 never resided with Chhajju Singh Kanwal since 1980 and even did not take care of him, when he was remained admitted in hospital, therefore, it can not be said that defendant No.1 has looked after and served Chhajju Singh Kanwal. Further, the defendant No.1 and 2 submitted that plaintiff and defendant No.3 had no cordial relation with Chhajju Singh Kanwal. In order to prove said fact, they placed on record some photocopies of newspaper wherein plaintiff and defendant No.3 have been shown to be disowned by Chhajju Singh Kanwal. But above said public notice have not been proved by bringing the record of newspaper concerned. So it can not be said that such public notices were published by Chhajju Singh Kanwal. Moreover the above said public notices are of the year 2001 and the alleged Will is of dated 21.6.2010 there is a span of 9 years between the publish of disowned notices, no evidence has been led by the defendant as to prove that the relationship between plaintiff, defendant No.3 and Chhajju Singh Kanwal remained as strained till the death of Chhajju Singh Kanwal. Rather defendant No.1 while appearing as DW4 has stated that her father Chhajju Singh Kanwal used to reside with his sons when he came to Khanna. Had the relation between Chhajju Singh Kanwal and his sons been strained, he would not have resided with his sons while visiting Khanna. Further if we assume that there was no cordial relation between Chhajju Singh Kanwal and his sons then why Chhajju Singh Kanwal did not give his wife Krishna Kumari. The defendant No.1 beneficiary of the Will has remained silent to this fact. It is also pertinent to mention here that defendant No.1 also produced on record alleged previous Will dated 12.9.2003 allegedly executed by Chhajju Singh Kanwal in her favour. Although the said Will dated 12.9.2003 has not been proved on record, but such will can be read against defendant No.1 as she herself produced the same and she relied upon said Will in written statement. Both the alleged Will dated 12.9.2003 and Will in question dated 21.6.2010 are executed by Chhajju Singh Kanwal in favour of defendant No.1. The defendant No.1 has failed to give any explanation as why Chhajju

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Singh Kanwal executed Will dated 21.6.2010 when he had already executed the Will on 12.9.2003. This fact alone make the Will in question doubtful. DW2 Sushil Kumar attesting witness of Will dated 21.6.2010 deposed that he saw the Will Ex. D1 for the first time in the office of Sub Registrar and it was in the hand of Sub Registrar. If DW2 had seen Will in question in the hands of Sub Registrar 1st time, then definitely the Testator did not sign the Will in his presence. Therefore, it can not be said that Chhajju Singh Kanwal signed and executed the Will in presence of Sushil Kumar. Further Nirmal Kumar B. Kumawat appeared as DW3 alleged attesting witness of the Will deposed that he also put his signature upon the Will in the office of Sub Registrar. He knows Chhajju Singh Kanwal due to the fact that he used to come at their office and he put his signature upon Will only on the asking of Mr. Tiberawala, C.A. who appeared as DW1. Both the witness DW2 and DW3 are seems to be witness of registration of Will in question but they failed to prove the due execution of Will in question.”

5. In appeal preferred by respondent No.1, the Lower Appellate Court reversed the findings recorded by the Court of the First Instance, observing as under:

“11. Further from perusal of record it transpires that the Ld. Trial Court has discarded the will executed by Chhajju Singh Kanwal on 21.6.2010 on the ground that the marginal witnesses have proved only the registration of the Will and not the execution and that Chhajju Singh had not given any reason in the Will Ex.D1 for not giving the property to his sons. But after going through the record this court is of the opinion that the said findings of the ld. Trial court are perverse and against facts and against the oral as well as documentary evidence available on record. Firstly, at this stage, it is apposite to refer to the cross examination of DW-2 Sushil Kumar V. Agarwal whereby he has stated as under:-



“Vot. But at the time of execution of will she was not there. It is correct that after marriage she is settled in Canada with her husband and remained abroad. Chhajju Singh was not having good relations with his sons. There was property dispute with them. I do not know if Chhajju Singh Kanwal was having any ancestral property or not..... I saw the Will Ex.D1 for the first time in the office of Sub Registrar and not before that. Sh. Chhajju Singh, Nirmal Kumavat and I together went to the office of Sub Registrar on 21.6.2010 when I for the first time saw the Will Ex.D1. It was in the custody of Sub Registrar, Mem Nagar, Ahmedabad. At that time Chhajju Singh had put a signature at two places on the Will in my presence and I also put my signature at two places. Similarly the other witness put the signature at two places..... I did not come across any event from which I could say that sons of Chhajju Singh loved and served him during his lifetime. Near about to the same effect is the submissions of DW-3 Nirmal Kumar B. Kumawat during his cross examination qua the will in question. From the aforesaid facts of the case this court is of the opinion that the will in question is duly proved on record and that the findings of the ld. trial court, discarding the will in question is against law and facts. Furthermore even the plaintiff/respondent no.1 has admitted in his cross-examination that “It is correct that my father got published notice in the newspaper regarding dis-inheriting me from the property.” When the plaintiff himself has admitted the fact of publication of public notice by Sh. Chhajju Singh Kanwal thereby dis-inheriting him from the property, this fact speaks volume as to why the plaintiff and defendant no.3 were not given any share by Chhajju Singh Kanwal in his properties

12. Furthermore the findings of Ld. Lower Court holding that Chhajju Singh had not given any reason in the Will Ex.D1 for not



giving the property to his sons is also erroneous because it has come on record that Chhajju Singh had no cordial relations with his sons as there was litigation between Chhajju Singh and the plaintiff and defendant No.3 and this fact was also admitted by the plaintiff in his cross-examination where he admitted that “There was some litigation between me and my father at Khanna which was decided between 2008-2010 regarding the properties and the said litigation was decided on merits.” From all these facts it is crystal clear that there was no cordial relations of the plaintiff with Sh. Chhajju Singh Kanwal and on account of all these facts and circumstances Chhajju Singh Kanwal has bequeathed all his properties to his daughter i.e. appellant through the will executed on 21.6.2010.

13. Accordingly, keeping in view all facts of the case and aforesaid discussion, it is held that findings of the Id. trial court on the issues thereby discarding the will dt. 21.6.10 in favour of the appellant and decreeing the suit of the plaintiff qua the suit properties on the basis of natural succession are totally perverse and against law and facts and as such the same are liable to be corrected & reversed and accordingly findings of the Id. Trial court on the issues no.1 to 3 is hereby set aside and reversed and all the said issues are decided in favour of the appellants and against the respondents.”

6. Ld. Senior Counsel representing the appellant has assailed the findings recorded by the Lower Appellate Court contending that the Lower Appellate Court erred in reversing the well reasoned findings recorded by the Court of the First Instance. It is admitted fact on record that there was no loss of affection between the father Chhajju Singh Kanwal, executant of the WILL and plaintiff. No reason has been assigned for the exclusion of the son. There is no reason for Chhajju Singh Kanwal to bequeath the property



in favour of respondent No.1, who got married in the year 1983 and resided abroad permanently since then. He submits that even the attesting witnesses failed to prove valid execution of WILL in terms of Section 63(c) of the Indian Succession Act, 1925 (hereinafter referred to as 'the 1925 Act'). Once DW-2 Sushil Kumar Agrawal, the attesting witness of the WILL, admits that he saw WILL (Exhibit D-1) for the first time in the Office of Sub Registrar in the hands of Sub Registrar, it proves that he never saw testator signing the WILL and thus the requirement of Section 63(c) stands breached. Reliance is being placed upon ratio of law laid down by Supreme Court in the case of '**Gurdian Singh (Dead) through Lr vs. Jagir Kaur (Dead) and another, 2025 INSC 866**', to submit that disinheritance of a natural successor without any reason, is a circumstance that indicates that the WILL was vitiated by undue influence.

7. Per contra, counsel for respondent No.1 has drawn my attention to the testimony of the plaintiff, who appeared as PW-1 and admitted that he was involved in a litigation with the executant of the WILL i.e., his father and a public notice was issued at the behest of his father, the executant of the WILL disinheriting him from the properties. He submits that from a bare perusal of the WILL, it is evident that joint properties that the executant had with plaintiff, were partitioned way back in the year 1990.

8. I have heard counsel for the parties and have carefully gone through records of the case.



9. One of the attesting witnesses to the WILL, namely Sushil Kumar Agrawal appeared as DW-2. Sushil Kumar Agrawal was employee of the executant of the WILL i.e., late Chhajju Singh Kanwal, who deposed as under:

“xxx I saw the Will Ex-D1 for the first time in the office of sub registrar and not before that. Sh Chaju Singh, Nirmal Kumawat and I together went to the office of sub registrar on 21.6.2010. When I for the first time saw the Will Ex-D1 it was in the custody of sub registrar Mem Nagar Ahmedabad. At that time Chaju Singh had put a signature at two place on the Will in my presence and I also put my signature at two places. Similarly the other witness put the signature at two places xxx.”

10. From the testimony of Sushil Kumar Agrawal, it is evident that he clearly testified that the testator signed WILL in presence of both the witnesses. Not even a suggestion was put to him that he never saw Chhajju Singh Kanwal signing the WILL or that he did not sign the same in the presence of the witnesses.

11. In view thereof, this Court finds that merely for the reason that Sushil Kumar Agrawal (DW-2) testified that he first saw WILL in the O/o Sub Registrar, does not bely execution of WILL in terms of Section 63(c) of the 1925 Act. Accordingly, the findings recorded by the Lower Appellate Court w.r.t. the valid execution of the WILL in terms of Section 63(c), are affirmed.

12. The law regarding ‘suspicious circumstance surrounding the WILL’, has been elaborately explained by Supreme Court in the case of



‘Shivakumar and others vs. Sharanabasppa and others’, (2021) 11 SCC

277, observing as under :

“XXXX XXXX XXXX

1. Ordinarily, 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. Alike the principles governing the proof of other documents, in the case of will too, the proof with mathematical accuracy is not to be insisted upon.
2. Since as per Section 63 of the Succession Act, a will is required to be attested, it cannot be used as evidence until at least one attesting witness has been called for the purpose of proving its execution, if there be an attesting witness alive and capable of giving evidence.
3. The unique feature of a will is that it speaks from the death of the testator and, therefore, the maker thereof is not available for deposing about the circumstances in which the same was executed. This introduces an element of solemnity in the decision of the question as to whether the document propounded is the last will of the testator. The initial onus, naturally, lies on the propounder but the same can be taken to have been primarily discharged on proof of the essential facts which go into the making of a will.
4. The case in which the execution of the will is surrounded by suspicious circumstances stands on a different footing. The presence of suspicious circumstances makes the onus heavier on the propounder and, therefore, in cases where the circumstances attendant upon the execution of the document give rise to suspicion, the propounder must remove all legitimate suspicions before the document can be accepted as the last will of the testator.
5. If a person challenging the will alleges fabrication or alleges fraud, undue influence, coercion et cetera 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 give rise to the doubt or as to whether the will had indeed been executed by the testator and/or as to whether the testator was acting of his own free will. In such eventuality, it is again a part of the initial onus of the propounder to remove all reasonable doubts in the matter.

6. A circumstance is “suspicious” when it is not normal or is “not normally expected in a normal situation or is not expected of a normal person”. As put by this Court, the suspicious features must be “real, germane and valid” and not merely the “fantasy of the doubting mind”.

7. As to whether any particular feature or a set of features qualify as “suspicious” would depend on the facts and circumstances of each case. A shaky or doubtful signature; a feeble or uncertain mind of the testator; an unfair disposition of property; an unjust exclusion of the legal heirs and particularly the dependents; an active or leading part in making of the will by the beneficiary thereunder et cetera are some of the circumstances which may give rise to suspicion. The circumstances above-noted are only illustrative and by no means exhaustive because there could be any circumstance or set of circumstances which may give rise to legitimate suspicion about the execution of the will. On the other hand, any of the circumstances qualifying as being suspicious could be legitimately explained by the propounder. However, such suspicion or suspicions cannot be removed by mere proof of sound and disposing state of mind of the testator and his signature coupled with the proof of attestation.

8. The test of satisfaction of the judicial conscience comes into operation when a document propounded as the will of the testator is surrounded by suspicious circumstance(s). While applying such test, the court would address itself to the solemn questions as to whether the testator had signed the will while being aware of its

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contents and after understanding the nature and effect of the dispositions in the will?

9. In the ultimate analysis, where the execution of a will is shrouded in suspicion, it is a matter essentially of the judicial conscience of the court and the party which sets up the will has to offer cogent and convincing explanation of the suspicious circumstances surrounding the will.

XXXX XXXX XXXX”

13. The issue now is w.r.t. the suspicious circumstance surrounding the WILL as held by the Court of the First Instance and reiterated by Ld. Senior Counsel appearing for the appellant.

14. The only ‘suspicious circumstance’ that has been pointed out is ‘exclusion of the plaintiff from the WILL’ and ‘absence of reason for his exclusion’.

15. Trite it is that the deprivation of a natural legal heir by itself is not a suspicious circumstance as the WILL usually amounts to interference with the normal line of succession. The Court has to see whether the exclusion of a natural plaintiff can be held to be a normal circumstance in the given facts of the case.

16. It has come on record that father and son were involved in litigation. There was a public notice issued by father disinheriting the son. Thus, in these circumstances, exclusion of son cannot be said to be a circumstance that pricks the conscious of a prudent man. The WILL mentions about the plaintiff and the partition of the joint properties *inter se*



between the testator and the excluded son. It shows that the testator was fully conscious of the son and the properties given to him in partition.

16. In view thereof, this Court concurs with the findings recorded by the Lower Appellate Court that the findings recorded by the Court of the First Instance regarding the WILL being surrounded by suspicious circumstance are perverse and need to be reversed.

17. Plaintiff attacked WILL being a forged document, but failed to lead any evidence to prove the same.

18. In view of above, finding no merit in the present appeal, the same is ordered to be dismissed.

19. Pending application, if any, shall also stands disposed off.

October 15, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes
Whether reportable : Yes