

**RA-RS-5-2022
CM-1364-C-2022
CM-1365-C-2022 in
RSA-2110-1994**

2025-PHHC-178144



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

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**RA-RS-5-2022
CM-1364-C-2022
CM-1365-C-2022 in
RSA-2110-1994
Reserved on : 30.09.2025
Pronounced on : 23.12.2025
Uploaded on : 23.12.2025**

Labh Singh and another

..... Applicants/Appellants

versus

Bhajan Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mrs. Munisha Gandhi, Senior Advocate with
Mr. Viraj Gandhi, Advocate and
Mr. Adarsh Kumar Dubey, Advocate
for the review applicant/appellant.

Mr. A.S. Dhindsa, Advocate
for respondents No.1 and 2.

PANKAJ JAIN, J. (Oral)

1. This is an application filed by the plaintiffs seeking review of judgment dated 28.02.2020 passed by this Court in RSA No.2520 of 1993 and RSA No.2110 of 1994.

2. Reliance is being placed upon order passed by Supreme Court in Special Leave to Appeal No.19855 of 2021. Petitioners are the plaintiffs, who sought decree of declaration propounding Will dated 15.10.1984 claimed to have been executed by Smt. Bant Kaur in their favour. Plaintiffs challenged mutation bearing No.1776 dated 31.01.1986 decided in favour of the defendants holding defendant No.1



and 2 entitled to inherit the estate left by Bant Kaur.

3. Parties in dispute qua land bearing measuring 104 kanal 15 marlas left by Bant Kaur widow of Bir Singh. Plaintiffs are brothers of Bant Kaur. They claimed that Bant Kaur executed Will dated 15.10.1984 in their favour. Plaintiffs were put in possession of the suit land by Bant Kaur during her lifetime. After her death, they became owners in possession of the suit land. Defendants who have no concern with the suit land, got mutation bearing No.1776 dated 31.01.1986 in their favour. Defendants have no right, title or interest in the property under the garb of mutation order are trying to dispossess the plaintiffs and are trying to alienate the suit property.

4. Suit was contested by defendant No.1 and 2. In the written statement, they admitted relationship between plaintiffs and Bant Kaur. However, they claimed that Bant Kaur was of unsound mind. She was not capable of executing Will claimed by the plaintiffs. The Will propounded by the plaintiffs is a forged and fabricated document. Bant Kaur having died intestate, it is the defendants who are entitled to inherit the estate left by Bant Kaur, being sons and daughters of sisters of father of Bir Singh-husband of Bant Kaur. The Court of First Instance decided issue qua Will against the plaintiffs and held that the plaintiffs failed to prove the Will propounded by them relying upon Section 14 and 15 of the Hindu Succession Act, 1956. However, the Court held that the plaintiffs being brothers of Bant Kaur are entitled to succeed to her estate and held that the mutation bearing No.1776 has been wrongly sanctioned in favour of defendant No.1 and 2. However,



holding that the plaintiffs have not been proved to be in possession of the suit property, the Court of First Instance dismissed the suit filed by the plaintiffs.

5. Three different appeals were filed before the Lower Appellate Court. The legal heir of defendant No.2 preferred Civil Appeal No.3 of 89. Plaintiffs preferred Civil Appeal No.83 of 89. Defendant No.1 preferred Civil Appeal No.69 of 89. All the three appeals were decided by common judgment by the Lower Appellate Court. The appeal preferred by all the three parties were ordered to be dismissed. Findings recorded by the Court of First Instance stand affirmed. Two different sets of regular second appeals were filed before this Court. RSA No.2110 has been preferred by the plaintiffs. RSA number 2520 of 1993 was preferred by LR of defendant No.1. Both the appeals stand dismissed by this Court vide judgment dated 28.02.2020 which reads as under:-

“This order will dispose of RSA Nos.2520 of 1993 and 2110 of 1994 as these have emerged out of the same judgments and decrees passed by the Courts. For facility of reference, facts are taken from RSA No.2110 of 1994.

The present lis pertains to land measuring 104 kanal 15 marlas situated at village Ghandhu khurd, left behind by Smt. Bant Kaur widow of Bir Singh, who died 1¼ years earlier to institution of suit on 05.02.1986. Jangir Singh and others – appellants/plaintiffs staked their claim to the suit land on the basis of Will dated 15.10.1984 purported to be executed in their favour in lieu of services rendered by them to Bant Kaur, their sister. They challenged mutation No.1776 dated 31.01.1986 sanctioned in favour of defendants No.1 and 2 (appellants in RSA No.2520 of 1993). It has further been averred that Bant Kaur had given General Power of Attorney in favour of the plaintiffs to manage the suit land including its



sale. They have prayed in the alternative that in case the Will dated 15.10.1984 is not accepted, suit land would be inherited by defendants No.3 to 6, sons of paternal uncle of Bir Singh husband of Bant Kaur.

The Courts have consistently held to reject Will dated 15.10.1984. The original Will has not seen light of the day and attested copy, probably obtained from the records of mutation proceedings, is marked as Ex.P2.

Counsel for the appellants has failed to advance any arguments much less meaningful to successfully assail concurrent findings by the Courts rejecting Will dated 15.10.1984 or entitlement of the appellants to inherit to Ms. Bant Kaur on the basis of aforesaid Will. I have seen photocopy of the Will whereas the attested copy is not the copy of the Will but has been prepared in the handwriting of an official of the concerned revenue authority. Perusal of photocopy of the Will leaves no manner of doubt that the trial Court has rightly commented adversely against Will dated 15.10.1984. The Court also refused to rely upon testimonies of the witnesses examined to prove Will in view of various contradictions/discrepancies noticed therein. I have also gone through statements of the witnesses examined to prove the Will but find myself unable to justify interference in those findings rejecting the Will and claim of the appellants on the basis thereof.

The Courts have held that it has not been proved on record as to how Ms. Bant Kaur became owner of suit land or to say that whether she became owner on the basis of inheritance or a title deed in her favour. These findings are the result of failure to take into consideration facts elicited in cross examination of witnesses of the appellants wherein they had stated that land was inherited by Bant Kaur on the death of her husband Bir Singh. This apart, as the appellants themselves have raised a contention that in case the Will is not accepted, defendants no.3 to 6 would become owner of the suit land on the basis of natural inheritance being sons of paternal uncle of husband of Bant Kaur and contesting defendants No.1 and 2 have also staked their claim to the suit land on the basis of inheritance to Sh. Bir Singh by claiming



themselves to be children of Bua (paternal aunt) of Sh. Bir Singh, there is no dispute that suit land was inherited by Bant Kaur from her husband Bir Singh. During the course of hearing, counsel for the parties have not disputed that suit land came to be inherited by Bant Kaur on the death of Bir Singh as there was no other class-I heir of Bir Singh except Bant Kaur, his widow. The appellants do not claim the suit property on the basis of natural succession. The Will in their favour has been rejected and findings of the Courts in this regard have been affirmed. As such, the appellants have no right in the suit property, therefore, they cannot maintain a suit to challenge mutation No.1776 dated 31.01.1986 sanctioned in favour of defendants No.1 and 2. That being so, findings of the Courts setting aside mutation No.1776 dated 31.01.1986 sanctioned by A.C. Ist Grade (E.M.) Mansa cannot be allowed to sustain.

Counsel for the appellants in RSA No.2520 of 1993 has made sole submission that since Jangir Singh and others are not entitle to inherit to Bant Kaur on the basis of testamentary succession and they have not claimed right on the basis of natural succession, the Courts have wrongly set aside the aforesaid mutation sanctioned in their favour at the behest of plaintiffs. This contention raised by counsel for the appellants has already been taken care, in view of discussion made hereinbefore. However, it is pertinent to mention that counsel for the appellants has not made any submissions to challenge correctness of factual findings by the Courts negating plea of the appellants that they are the children of paternal aunt (Bua) of Bir Singh.

Bhajan Singh and Kishno – appellants/defendants No.1 and 2 did not appear in the witness box to establish their defence plea in respect of their relationship with Bir Singh and Bant Kaur. An adverse inference is liable to be drawn against them for their failure to appear in the witness box. No documentary evidence was produced to prove that Kesar Kaur was the sister of father of Bir Singh and as such said Kesar Kaur is Bua of Bir Singh, husband of Bant Kaur. Gurdev Singh son of Kishno – defendant No.2 was examined but he expressed ignorance about various vital facts relating to family of Bir Singh and Bant Kaur. Meaning thereby that



testimony of Gurdev Singh is not at all sufficient to establish that Kesar Kaur was the sister of father of Bir Singh, thus, defendants No.1 and 2 are the sons of Bua of said Bir Singh. Similarly, statement of Lehna Singh DW-2 does not inspire confidence to prove relationship of Kesar Kaur with Bir Singh. As such, findings of the Courts negating plea of defendants No.1 and 2 being related to Sh. Bir Singh are liable to be affirmed and ordered accordingly. It is clarified that findings of the Courts to set aside mutation No.1776 dated 31.01.1986 in favour of defendants No.1 and 2 have been set aside on the solitary ground that the plaintiffs/appellants do not have any right in the suit property, they cannot maintain a suit to challenge the aforesaid mutation.

In view of what has been discussed hereinbefore, RSA No.2110 of 1994 is dismissed leaving the parties to bear their own costs. RSA No.2520 of 1993 stands disposed of, in view of aforesaid observations.

Before parting with this order, it is appropriate to note that no clear picture emerged before the Courts, if Sh. Bir Singh had any heir who could inherit to Ms. Bant Kaur being successor in interest of Bir Singh in view of the provisions of Hindu Succession Act, 1956. In the given circumstances, interest of justice commands that a copy of this judgment be sent to the Chief Secretary, Government of Punjab and Collector/Deputy Commissioner, Mansa for examining, if land left behind by Bant Kaur is required to be escheated to the State Government, in accordance with law. The Registry is directed to send copies of the judgment to the aforesaid authorities for necessary action and report within three months of receipt of copy.”

6. The plaintiffs approached Supreme Court by way of Special Leave to Appeal No.19855 of 2021. Supreme Court passed the following order:-

“Mr. Sidharth Luthra, learned senior counsel for the petitioner seeks permission to withdraw the present special leave petition with liberty to file review petition before the High Court. The Special Leave Petition is dismissed as



withdrawn with the aforesaid liberty.

We also give liberty to the petitioner to challenge the impugned order if the decision in the review petition is adverse to the petitioner.”

7. Learned senior counsel appearing for the applicants submits that the suit filed by the plaintiffs claiming themselves to be owner in possession of the suit land, cannot be dismissed merely on the ground that they sought declaration on the basis of Will. Mrs. Gandhi submits that the findings recorded qua possession are also wrong. Plaintiffs successfully proved Jamabandi Ex. P4 for the year 1994-95, khasra girdawri Ex.P5-the crop of Swani 1995. Both the documents proved the possession of the plaintiffs over the suit land. Courts below misread the evidence on record and wrongly rejected the claim of the plaintiffs. She further submits that since it is only the plaintiffs who approached Supreme Court against the judgment passed by this Court, defendants cannot be allowed to make submission as findings qua them have become final as they preferred not to prefer any appeal.

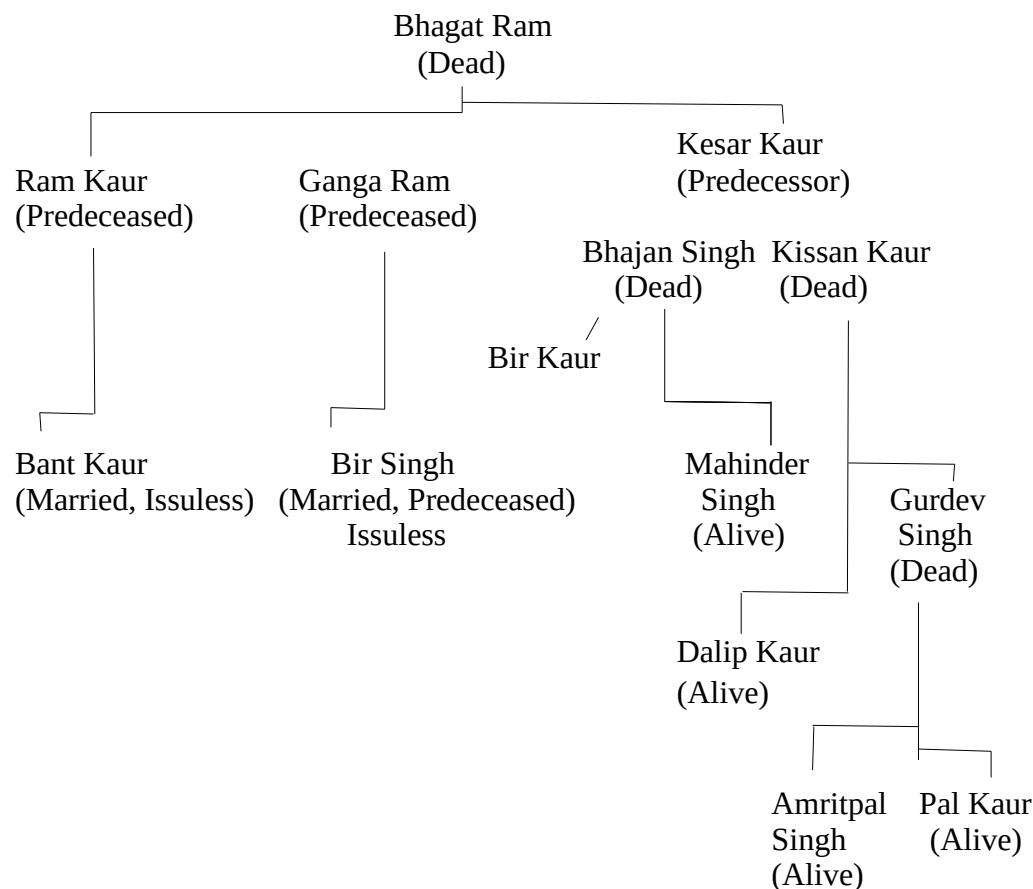
8. *Per contra*, counsel for the respondents submits that the review application is barred by limitation having been filed after more than two years. The application is not supported by any affidavit and thus, the review application deserves to be dismissed on the ground of delay. He further submits that RSA No.2110 of 1994 filed at the behest of the plaintiffs was dismissed, whereas RSA No.2520 of 1993 filed by the respondents was disposed off. He submits that in compliance of the operative part of the judgment under review, Sub-Divisional Magistrate, Budhlada submitted report through Chief Secretary, Punjab



husband of the deceased are alive.

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

10. There is no dispute between the parties that the estate in issue was inherited by Bant Kaur from her husband Bir Singh. It is also not in dispute that Bir Singh had no surviving siblings or parent. Defendants are claiming through Kesar Kaur, i.e. sister of father of Bir Singh. Family tree which has been referred to by the respondents and is part of the report submitted by Chief Secretary, Punjab Government, Department of Revenue, Rehabilitation and Disaster Management reads as under:-



11. Admittedly, Bant Kaur and Bir Singh both died after Hindu Succession Act, 1956 came into being. Thus, succession of Bant Kaur has to follow the provisions of 1956 Act. Admittedly, Kesar Kaur



predeceased Bir Singh. Accordingly, the children of Kesar Kaur are neither class I nor class II of Bir Singh. However, at the same time, it cannot be denied that Kesar Kaur and Bir Singh are cognates as defined under Section 3(c) of 1956 Act which reads as under:-

“3(c) “cognate”—one person is said to be a “cognate” of another if the two are related by blood or adoption but not wholly through males.

12. It being an undeniable fact that Bant Kaur received estate in inheritance from her husband Bir Singh, the succession shall be governed by Section 15 which reads as under:-

“15. General rules of succession in the case of female Hindus.—

(i) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—

- (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
- (b) secondly, upon the heirs of the husband;
- (c) thirdly, upon the mother and father;
- (d) fourthly, upon the heirs of the father; and
- (e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),—

- (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and
- (b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased



(including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.”

13. Section 15(2)(b) provides that a property inherited by a female Hindu from her husband or from her father-in-law in the absence of her children shall devolve upon heirs of her husband and shall not follow order of succession as contemplated under Section 15(1)(a). Section 16 of 1956 Act makes the rule more explicit providing as under:-

“16. Order of succession and manner of distribution among heirs of a female Hindu.

The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestate's property among those heirs shall take place, according to the following rules, namely:-

Rule 1- Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry and those including in the same entry shall take simultaneously.

Rule 2- If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own children alive at the time of the intestate's death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate's death.

Rule 3- The devolution of the property of the intestate on the heirs referred to in clauses (b), (d) and (e) of sub-section (1) and in sub section (2) of section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death.”

14. As per rule 3, the property of the female Hindu who dies intestate has to devolve as if her husband/or father or mother as the case



may be, has died intestate. In the present case, it is Husband. Thus, the property shall devolve as if Bir Singh died immediately after Bant Kaur. The succession of Bir Singh shall abide by Section 8 of 1956 Act which reads as under:-

“8. General rules of succession in the case of males.

The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter-

- (a) firstly, upon the heirs, being the relatives specified in class I of the Schedule;
- (b) secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule;
- (c) thirdly, if there is no heir of any of two classes, then upon the agnates of the deceased; and
- (d) lastly, if there is no agnate, then upon the cognates of the deceased.”

15. Defendant No.1 and 2 being cognates of Bir Singh shall call within clause (d) as contemplated under Section 8. In the absence of there being any class I, class II heirs and the agnates, defendant No.1 and 2 being cognates of the deceased are entitled to the estate left by Bant Kaur.

16. In view of above, finding no merits in the present review application, the same is ordered to be dismissed.

17. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

23.12.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No