



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Reserved on: 02.09.2025
Pronounced on : 29.11.2025

1. RSA-3928-2019 (O&M)

SHANTI DEVI AND ORS.

.....Appellants

VERSUS

ROOPMATI AND ORS.

.....Respondents

2. RSA-368-2022 (O&M)

VIJAYVIR (SINCE DECEASED) THROUGH LRS

.....Appellants

VERSUS

ROOPMATI AND ORS.

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rakesh Nehra, Senior Advocate with
Mr. Sahil Nehra, Advocate for the appellants
in RSA No.3928 of 2019.

Mr. N.K Malhotra, Advocate,
for the appellants in RSA No.368 of 2022.

Mr. Keshav Pratap Singh, Advocate
for the respondent No.1 in both cases.

HARPREET KAUR JEEWAN, J.

CM-7665 & 7666-C-2025 in RSA-368-2022

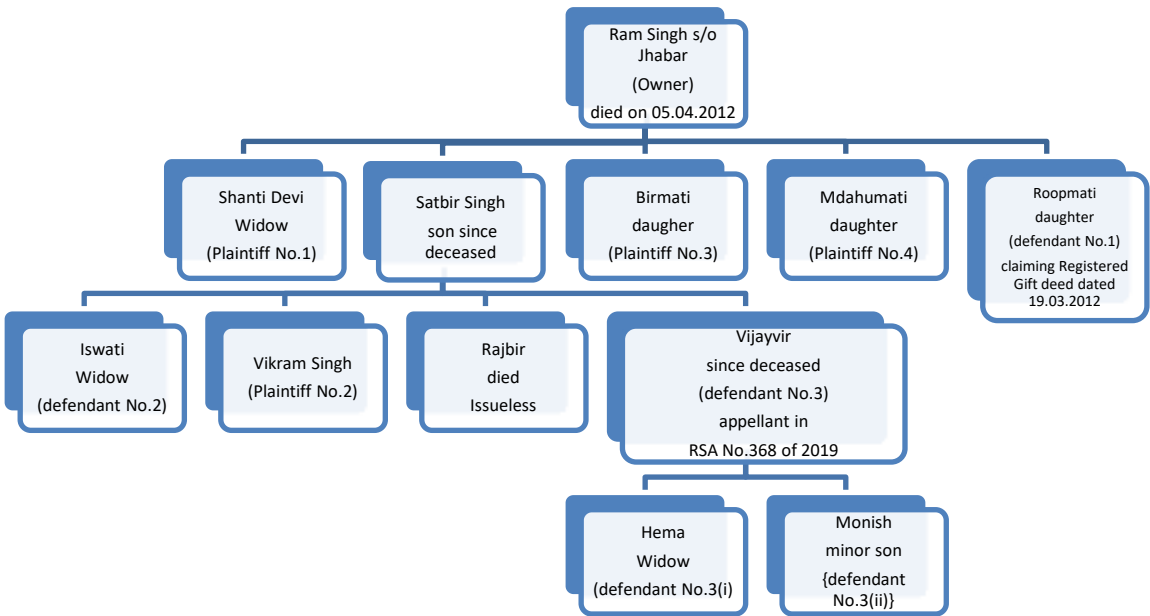
Applications for preponement of the main appeal as well as CM-5507-C-2025 seeking stay of the execution proceedings, which is fixed for 20.11.2025.

In view of the averments made in the applications, same are allowed and the main appeal as well as the application for stay of execution proceedings are taken on Board today itself.

With the consent of the parties and in the interest of justice, connected **RSA No.3928-2019**, which is pending for 20.11.2025, is also taken on Board today itself.

Main cases

1. Both the Regular Second Appeals have been filed for assailing the correctness of the judgment and decree dated 19.12.2018, passed by the First Appellate Court upholding the judgment and decree dated 19.03.2018, passed by the trial Court as such, both the Regular Second Appeals aforesaid shall be decided by this common order.
2. The *Regular Second Appeal No.3928 of 2019* has been filed by the plaintiff-appellants (*hereinafter referred to as the appellants*) aggrieved against the dismissal of the Civil Suit filed by them and which has been further upheld by the First Appellate Court
- 2.1 Whereas, *Regular Second Appeal No.368 of 2019* has been filed by the appellant-defendant No.6/Vijayvir Singh (*hereinafter referred to as ‘appellant-Vijayvir through LRs’*) being also aggrieved against the concurrent dismissal of the suit filed by the plaintiffs.
3. The following Pedigree table reflects the relationship *inter se* the parties:-



4. Late Ram Singh s/o Jhabar, Predecessor-in-interest was the owner in possession of House No.1394/20, Bhagwan Colony, Civil Road, Rohtak (*hereinafter referred to as the 'suit property'*), which the respondent No.1/defendant No.1 is claiming her ownership on the basis of the gift deed bearing No.12379 dated 19.03.2012 (*for short, 'the Gift Deed'*). The legality of the said gift deed has been challenged by the plaintiff-appellants and a declaration has been sought that the said Gift Deed is illegal, null and void.

5. As per the brief facts set-up by the plaintiff-appellants, Ram Singh was owner-in-possession of the suit property. He expired on 05.04.2012 and after his death, the suit property along with the other properties owned by said Ram Singh was inherited by the plaintiffs being his legal heirs. The plaintiffs came to know about the Gift Deed allegedly executed by Ram Singh in favour of defendant No.1, which has been challenged in the suit filed by them on the ground that at the time of execution of the alleged Gift Deed, Ram Singh was more than 90 years of age and he was not in sound disposing mind, being bed-ridden. The Gift Deed does not bear signatures and thumb-impression of Ram Singh. The Deed was illegally procured by defendant No.1 in collusion with the scribe and the witnesses. The proper description of the suit property is not mentioned in the deed since the House Number has been written as 1501/20 situated in Vijay Nagar, whereas correct description of the suit property is House No.1394/20, situated in Bhagwan Colony, Civil Road, Rohtak.

5.1 The respondent-defendant No.1 contested the suit by filing the written statement coupled with the counter-claim. The relationship *inter se* the parties was admitted. The ownership of the suit property was claimed on the basis of registered Gift Deed having been executed by her father, Ram Singh. It is further contended that even prior to execution of the Gift Deed,

the father of defendant No.1 had executed a registered Will dated 05.12.2011 as well in favour of defendant No.1. It is contended that plaintiffs were not having cordial relationship with Ram Singh and due to the said reason, he was living with his daughter-defendant No.1 and he bequeathed the property in her favour initially by executing a Will and thereafter, by executing a registered Gift Deed in her favour. It is specifically contended that plaintiff No.1 moved an application before the Sub Divisional Magistrate (SDM), Rohtak against the husband of defendant No.1 under Section 97 of the Code of Criminal Procedure, 1973 (*for short, 'the Cr.P.C.'*). On the basis of the said application, statement of Ram Singh (now deceased) was recorded in the Court of SDM Rohtak on 02.05.2008, wherein he informed the SDM that he is residing with defendant No.1 and her husband with his free consent as they are serving him well. In the counter-claim, the relief of possession was sought alleging that defendant No.1 is owner-in-possession of the suit property on the basis of registered Gift Deed as well as on the basis of the registered Will.

5.2 The legal representatives of appellant-Vijayvir filed separate written statement admitting the claim of the plaintiffs and they also made a prayer that the Gift Deed be declared null & void.

5.3 From the pleadings of the parties, the following issues were framed:-

1. *Whether the plaintiffs are entitled to a decree for declaration on the grounds as prayed for? OPP*
2. *If issue No.1 is proved, whether the plaintiffs are entitled for a decree of permanent injunction on the grounds as prayed for? OPD*
3. *Whether the suit is not maintainable in the present form? OPP*
4. *Whether the plaintiffs have no locus standi to file the present suit? OPD*
5. *Relief.*

5.4 The trial Court dismissed the suit filed by the plaintiffs and allowed the counter-claim filed by defendant No.1, declaring that defendant No.1 is entitled to the possession of the suit property, however, defendants were also restrained from alienating the suit property.

5.5 The First Appellate Court modified the judgment and decree by way of allowing the counter-claim filed by defendant No.1 and declaring defendant No.1 to be the owner of House No.1394/20 Bhagwan Colony, Civil Road, Rohtak. The plaintiffs were directed to hand over possession of the suit property to defendant No.1 within a period of 03 months.

6. Learned counsel for the appellant-plaintiffs submitted that the Gift Deed alleged to have been executed by the predecessor-Ram Singh is merely a paper transaction as he was suffering from Parkinson's disease and Prostate Cancer; he was 90 years of age; he was not in a sound disposing mind. It is further pointed out that Mahavir Singh Gulia, who is husband of the beneficiary, is an attesting witness of the deed, which clearly indicates that he had obtained the said document by using his influence. It is further alleged that even the proper description of the suit property is not mentioned in the deed. As such, the decree passed by the First Appellate Court is liable to be set aside. It is also pointed out that there are no reasons mentioned for excluding the natural heirs of the donor. It is contended that the execution of multiple documents clearly indicates *mala fide* on the part of the defendant No.1. On one hand, a Will is alleged to have been executed by the donor on 05.12.2011, in such circumstances, there was no need for execution of a Gift Deed by the deceased. All these documents were got prepared by defendant No.1 by using her influence, as such, the Gift Deed is liable to be set aside.

Cites *Krishna Mohan Kul Vs. Pratima Maity, 2003 AIR Supreme Court 4351;*

Supreme Court 443; Sri. Mahesh Vs. Sangram and others, 2025 AIR Supreme Court 495; and K. Laxmanan Vs. Thekkayil Padmini and others, 2009 AIR Supreme Court 951.

7. Learned counsel appearing on behalf of the legal representatives of appellant-Vijayvir raised similar arguments as raised on behalf of the appellants.

8. *Per contra*, learned counsel appearing on behalf of respondent No.1, referring to the reasons recorded by the trial Court as well as by the First Appellate Court, contends that the suit has been rightly decreed and the present appeal is devoid of any merits.

9. I have considered the aforesaid submissions and perused the paper-book.

10. It is not disputed that the suit property was self-acquired property of Ram Singh, which was purchased by him vide sale deed dated 04.11.1957 (Ex.PX). No doubt, the appellants are the Class I legal heirs of deceased-Ram Singh, however, the beneficiary of the Gift Deed is also one of the natural heirs-daughter of the deceased.

11. The challenge to the execution of the Gift Deed has been made primarily on the grounds that the executant was old; he was not of sound disposing mind; he was under the influence of the beneficiary; he was suffering from age-related ailments; and other natural heirs have been excluded without there being a recital in the deed.

11.1 The said challenge falls flat while considering the documentary evidence by way of application filed by the wife of the executant during the lifetime of the executant under Section 97 Cr.P.C. and the statement made by the executant before the SDM, Rohtak. As per Ex.D3, Shanti Devi wife of the executant filed an application in the Court of SDM requesting for issuance

of search warrants of her husband-executant of the deed, with the following allegations: -

“2. That the accused have wrongly confined the husband of complainant namely Ram Singh Budhwar at their house situated at H.No.3258 sector 23 Gurgaon. The husband of the complainant was confined against his will and wishes.

3. That the husband of the complainant is aged about 80/85 years old and he is heart patient and also patient of blood pressure, and there is a apprehension in the mind of complainant, that the accused persons may kill the husband of the complainant, because the husband of complainant was having a cash amount of Rs. 15 lacs.

4. That the complainant is residing in the area of Police Station Civil Lines, Rohtak and police of Civil Lines Rohtak has jurisdiction to search her husband and directions may be issued to the concerned police station.”

11.2 On the basis of the aforesaid application, Ram Singh (executant of the deed), made a statement on 02.05.2008 before SDM, Rohtak (Ex.D3), wherein he stated that he is residing along with her daughter-beneficiary of the Gift Deed and son-in-law as per his free-will and he further expressed his desire to continuously live with his daughter and son-in-law, who were serving him well. The English translation of the said statement is as under:-

“Statement of Subedar (Hony. Lt. Ram Singh) -----

Stated that I am living with my son-in-law Mahavir Singh Gulia and daughter Roopmati in house No.3258, Sector 23, Gurugram as per my free-will and he had gone to them with his consent. Presently I am living with them as per his free-will. I want to live with my son-in-law and daughter till the end of my life. They are serving me well. Till my last breath, I want to live with my son-in-law Mahavir Singh Gulia and daughter Roopmati. I do not want to go with my wife since she wants to appropriate my property after getting me killed.

02.05.2008

Sd/-

Sub Divisional Magistrate, Rohtak”

12. In this regard, the testimony of Col. Mahavir Singh Gulia (DW-9), who is son-in-law of the executant and one of the attesting witnesses, is also material. He has testified that the executant of the deed was humiliated and harassed by the plaintiffs and by his other relatives-defendant Nos.2 & 3. He was turned out of his house at Rohtak in the year 2008. He was looked after by his son-in-law and daughter-Roopmati till his death. In the cross-examination, the witness has testified that his father-in-law, Ram Singh, was suffering from Bronchitis; he was operated for Prostate in the year 2001 at Bangalore; again, he was operated from Sir Ganga Ram Hospital in the year 2010. He was also suffering from Parkinson's disease and was under medication from Fortis Hospital and Sir Ganga Ram Hospital.

13. The testimony of the attesting witness and the aforesaid statement of the executant as well as the application given by the wife of the executant clearly indicate that the executant was not living with the plaintiffs during his lifetime. He was having medical issues related to old age. He was being treated with medical help and was being looked after by the beneficiary and her husband. The executant himself had shown his desire to continue living with one of his daughters despite his wife being alive. All such circumstances give strong indication that the executant was not given love and affection and was ill treated by his wife as well as by his other children.

14. The alleged suspicious circumstances about the authenticity of the Gift Deed, i.e. age of the executant, excluding the other natural heirs from the benefit of the property in question and old age medical issues are strongly dispelled by the documentary evidence, i.e. the executant himself expressed his desire to live with the beneficiary and being happy with the services rendered by the beneficiary, during his lifetime, that too before an authority,

i.e. Sub Divisional Magistrate.

15. The aforesaid facts are supplemented with another aspect that prior to executing the Gift Deed, the executant had even executed a registered Will in favour of the beneficiary. The executant was living with the beneficiary. Both the Gift Deed as well as the Will are registered documents, which indicate that the executant had appeared before the Sub Registrar for registration of such documents and by making an endorsement on such documents, the Sub Registrar had given authenticity about the appearance of the executant before him and confirming the execution of such documents.
16. In view of aforesaid peculiar facts & circumstances of this case, the objections raised by the appellants that one of the attesting witnesses is the husband of the beneficiary or that the executant was old or that there is absence of reasons for excluding the other natural heirs, pale into insignificance.
17. The decisions relied upon by learned counsel for the appellants in Krishna Mohan Kul (supra), H. Venkatachala Iyengar (supra), Sri. Mahesh (supra) and K. Laxmanan (supra) are also distinguishable on facts.
18. Consequently, there are no merits in the present appeals and as such, both the Regular Second Appeals stand dismissed; the findings recorded by the First Appellate Court are affirmed. Decrees be drawn accordingly.
19. Pending application(s), if any, shall also stand disposed of.

29.11.2025
Sapna Goyal/atul

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No