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

RSA-1272-2022 (O&M)

Date of Decision: 10.12.2025

DEEP SINGH @ DEEPAK @ DEEPAK BAJWA

...Appellant

Versus

IQBAL SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL**Present:-** Mr. Munish Gupta, Advocate for the appellant.**VIKRAM AGGARWAL, J.(Oral)**

1. This is plaintiff's appeal against the judgment and decree dated 18.02.2022 passed by the Court of District Judge, Hoshiarpur dismissing the appeal filed against the judgment and decree dated 16.01.2018 passed by the Court of Civil Judge (Senior Division), Hoshiarpur, vide which the suit for declaration filed by the appellant/plaintiff, was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff (Deep Singh @ Deepak) instituted a suit for declaration to the effect that he was owner in possession of the share of deceased Surjit Kaur w/o late Makhan Singh, out of land measuring 14 Kanals 7 Marlas (fully described in the plaint) situated in Village Bajwara, Tehsil and District Hoshiarpur (hereinafter referred to as 'the suit land') and that revenue entries were liable to be corrected in his



name. Consequential relief of permanent injunction restraining the defendants from alienating any part of the suit land or from disturbing the possession of the plaintiff from the same, was also sought.

3.1 Makhan Singh had four sons namely, Baldev Singh, Iqbal Singh, Sukchain Singh and Pritpal Singh (defendants No.1 to 3) and four daughters, Hardip Kaur, Paramdeep Kaur, Satwant Kaur and Jatinder Kaur (defendants No.4 to 7). The mother of the plaintiff namely, Balwinder Kaur and his sister Harvinder Kaur, were also arrayed as defendants No.8 and 9.

3.2 The case set up was that Surjit Kaur (grandmother of the plaintiffs and wife of Makhan Singh) was owner in possession of the suit land. She expired in 1991. On account of her love and affection for the plaintiff, Surjit Kaur, who was residing with her daughter Paramdeep Kaur in England, executed a Will dated 17.01.1990 regarding her entire properties in favour of the plaintiff. The said Will came to his notice only just before filing the suit when Paramdeep Kaur disclosed to him about the same. Under the circumstances, the suit was filed.

4. Defendants No.2, 3, 4, 6 & 7 did not contest the suit and were accordingly proceeded against *ex parte*. However, defendants No.1, 5, 8 and 9 contested the suit and filed separate written statements. Defendants No.1, 8 and 9 filed a joint written statement raising preliminary objections as regards maintainability *locus standi*, suppressing of material facts etc. It was averred that Will dated 17.01.1990 was a fabricated document which had been manipulated



by the plaintiff in connivance with Seena Grewal and Surjit Gill, who were stated to be the attesting witnesses of the same.

4.1 Defendant No.5 filed a written statement, admitting the claim of the plaintiff. She stated that Surjit Kaur had been residing with her in England and before going there, she was being looked after and served by the plaintiff and her mother. It was averred that Surjit Kaur had executed Will dated 17.01.1990, in favour of the plaintiff and under the circumstances, the plaintiff was entitled to the share of Surjit Kaur.

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

“1. Whether the plaintiff is entitled to declaration as well as permanent injunction as prayed for? OPP

1A. Whether deceased Surjit Kaur executed legal and valid Will dated 17.01.1990 in favour of plaintiff regarding suit property?OPP

1B. Whether Will dated 17.01.1990 is forged & fabricated document and surrounded by suspicious circumstances?OPD

2. Whether the suit is not maintainable?OPD

3. Whether the plaintiff has no locus-standi to file the present suit?OPD

4. Whether the plaintiff is in collusion with defendant No.4 to 7?OPD-1, 8 & 9.

5. Relief.”

6. Parties led their respective evidence.

7. The suit was dismissed by the Court of Civil Judge (Senior Division), Hoshiarpur, vide judgment and decree dated



16.01.2018. The appeal filed against the said decision was also dismissed vide judgment and decree dated 18.02.2022 passed by the Court of District Judge, Hoshiarpur, leading to the filing of the present appeal.

8. I have heard learned counsel for the appellant and have also gone through the record which was produced by learned counsel for the appellant during the course of hearing.

9. Learned counsel appearing for the appellant submits that both Courts erred in dismissing the suit filed by the appellant/plaintiff. It is submitted that the execution of the Will duly stood proved and that, under the circumstances, the suit of the plaintiff deserved to be decreed. While referring to the the written statement filed by Paramdeep Kaur with whom Surjit Kaur was living, it is submitted that the case of the plaintiff was admitted by the said Paramdeep Kaur and despite that, both Courts non-suited the plaintiff.

10. I have considered the submissions made by learned counsel for the appellant, but find the same to be devoid of merit.

11. The Will in question was produced on record as Ex.P1. The mother of the plaintiff namely Balwinder Kaur appeared as PW-1 and Paramdeep Kaur appeared as PW-2. Both supported the case of the plaintiff. However, it has to be borne in mind that the execution of a Will is to be proved in accordance with the provisions of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872. The attesting witnesses of the Will were one Seena Grewal and one Surjit Gill. However, none of the said attesting



witnesses, was examined. It was stated that Surjit Gill had expired, but no death certificate or any other evidence to prove the said fact was produced. Seena Grewal, as already noticed, was not produced as a witness. A lame excuse was taken that she had shifted to USA and her exact whereabouts were not known. This explanation was rightly not accepted by both Courts. Not only this, PW-2 Paramdeep Kaur stated that the Will had been scribed by her at the instance of Surjit Kaur in the presence of both witnesses. However, both Courts rightly held that the provisions of Section 63 of the Indian Succession Act, 1925 and Sections 68 and 69 of the Indian Evidence Act, 1872, were not complied with, as a result of which, it could not be said that the execution of the Will had been proved and that the sole evidence of Paramdeep Kaur was not sufficient.

12. Not only this, the First Appellate Court rightly noticed that on the reverse side of the Will in question, there was a printed exemplar in which the date was mentioned as 14.06.1996. It was rightly held that it is quite strange as to how on a Will stated to have been executed on 17.01.1990, the exemplar mentioned the date as 14.06.1996.

13. Still further, prior to the filing of the suit, the Will never saw the light of the day and was never relied upon. If the same had been executed in the presence of Paramdeep Kaur, it is inexplicable as to why the said Will was not handed over to the plaintiff immediately after the death of Surjit Kaur in 1991 and why it was not brought to his notice all these years. In 2005, Iqbal Singh had filed an application



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regarding partition of the property in which co-owners namely Surjit Kaur and others were impleaded as parties. Even in the said application, the Will was not relied upon.

14. Still further, in the death Certificate Ex.P-9 of Surjit Kaur, her name is mentioned as Ajit Kaur Jassal wife of Minal Jassal. In the passport also her name was mentioned as Ajit Kaur. No explanation was forthcoming as regards this discrepancy also.

15. Under the circumstances, in the considered opinion of this Court, no illegality was committed by the both Courts in non-suiting the plaintiff.

16. In view of the aforementioned facts and circumstances, the instant appeal is found to be devoid of merit and is accordingly dismissed.

17. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

10.12.2025

himanshu

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No