



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 3591 of 1999 (O&M)

Date of Decision: 03.04.2025

Bhajan Singh

... Appellant(s)

Versus

Tej Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Varun Baath, Advocate
for the appellant(s).

Mr. Yugank Goyal, Advocate
for the respondents.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The defendant assails the correctness of the concurrent findings of facts arrived at by both the Courts below while decreeing the plaintiffs' suit for the grant of declaration that they are the owners in possession of the land measuring 56 kanals 11 marlas, situated in the revenue estate of village Rehana Jattan, Tehsil Phagwara, District Kapurthala, by Pakhar Singh on the basis of the registered Will dated 08.04.1987.

3. Pakhar Singh was unmarried. He executed a Will in favour of his brother, namely Joga Singh on 08.04.1987. On 09.04.1987, Pakhar Singh

died. The Will has been proved by the attesting witnesses. The learned counsel representing the appellant submits that the Will was surrounded by the suspicious circumstances because Pakhar Singh died on the very next day of the execution of the Will and both the witnesses were the residents of another village than the executant. The Will is a registered document. No evidence has been led by the parties to prove that Pakhar Singh did not visit the office of the Registrar on 08.04.1987. Moreover, the Will has been executed by Pakhar Singh in favour of his brother, namely Joga Singh.

4. As per Section 63 of the Indian Succession Act, 1925, the attesting witnesses are not required to be the residents of the same village.

5. The appellant has filed an application for permission to lead additional evidence to claim that the parties entered into an agreement on 23.04.1987. This document was neither pleaded nor led in evidence. For the first time, the alleged agreement is sought to be produced. The respondents deny the same.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed. The appellant, if so advised, may seek the enforcement of the agreement by filing a suit.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 03, 2025
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No