

2025:PHHC:007994



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

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RSA-422-2021 (O&M)

Date of Decision : 20.01.2025

DALIP KUMAR

.... Appellant

VERSUS

JAGDISH CHAND AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. H.R. Bhardwaj, Advocate for the appellant.

None for caveator-respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by defendant No.1-appellant challenging the judgment and decree dated 01.10.2016 passed by the Trial Court and the judgment and decree dated 18.12.2019 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that plaintiff-respondent No.1 filed a suit for declaration and permanent injunction averring therein that he along with defendants No.1 to 4 (the appellant and respondents No.2 to 4 herein) were the natural legal heirs of late Tara Chand son of Baiya Ram who died on 24.12.2012. It was further averred that the plaintiff and defendants No.1 to 4 being the sons and daughters inherited 1/5th share each in the property left by Tara Chand. It was further averred that Tara Chand had a savings bank account with State Bank of Patiala (defendant-respondent No.5) which has a balance of about ₹12,00,000

(rupees twelve lakh). There were other accounts with defendant-respondents No.6 and 7 as well. It was averred that defendant No.1-appellant herein was trying to withdraw the amount from the account of Tara Chand. Aggrieved by the said attempt, the present suit was filed by plaintiff-respondent No.1 claiming 1/5th share in the said bank accounts.

3. On notice defendant No.1-appellant along with defendant-respondent No.2 herein appeared and filed their written statement admitting the relationship. It was however denied that defendants No.1 to 4 had inherited the property along with the plaintiff. It was further the contention that the immovable property was still in the name of Tara Chand and that defendant No.1-appellant herein and defendants No.2 and 4 (respondents No.2 and 4 herein) were nominated as nominees in the various accounts. Hence plaintiff-respondent No.1 had no right to seek the declaration. Defendant-respondents No.5 to 7 did not file their written statement. However, they made a statement that they would disburse the amount pursuant to the orders passed by the Court.

4. Replication was filed reiterating the contents of the plaint and denying those of the written statement.

5. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to declaration as prayed for ? OPP

1-A. Whether the plaintiff is entitled to permanent injunction as prayed for ? OPP

2. Relief

6. Vide judgment and decree dated 01.10.2016 the Trial Court decreed the suit. Aggrieved by the same an appeal was preferred by defendant No.1-appellant. During the pendency of the appeal an application under Order 41 Rule 27 CPC was also filed averring therein that during the pendency of the appeal a relative, namely, Rakesh Kumar son of Tilak Raj came to defendant No.1-appellant herein on 15.04.2018 and disclosed that Tara Chand had executed a Will on 12.11.2012 and that the said Will was lying with Rakesh Kumar. He further disclosed that the original of the Will was not traceable however he had a photocopy of the same. An application under Order 6 Rule 17 CPC was also filed for amendment. Vide the amendment defendant No.1-appellant wanted to set up the Will and to add that the father was being looked after by defendant No.1-appellant. Vide judgment and decree dated 18.12.2019, the applications under Order 41 Rule 27 CPC and under Order 6 Rule 17 CPC were dismissed along with the appeal. Hence, the present regular second appeal by defendant No.1-appellant.

7. Learned counsel for defendant No.1-appellant would contend that both the Courts have erred in decreeing the suit. It is urged that plaintiff-respondent No.1 had no right, title or interest in the bank accounts of Tara Chand as defendant No.1-appellant herein was a nominee in all the accounts of his father. It is further the contention that since he was appointed as the nominee he alone would be the only person entitled to receive the amount.

8. Heard.

9. In the present case the only argument of the learned counsel for defendant No.1-appellant is that since defendant No.1-appellant was a nominee in the bank accounts hence the entire amount would be deemed to have been inherited by him alone.

10. The Hon'ble Supreme Court in the case of **Shakti Yezdani & Anr. V/s Jayanand Jayant Salgaonkar & Ors. [2024 (1) RCR (Civil) 270]** held as under :

'A consistent view appears to have been taken by the Courts, while interpreting the related provisions of nomination under different statutes. It is clear from the referred judgments that the nomination so made would not lead to the nominee attaining absolute title over the subject property for which such nomination was made. In other words, the usual mode of succession is not to be impacted by such nomination. The legal heirs therefore have not been excluded by virtue of nomination.'

Learned counsel for defendant No.1-appellant has not pressed the Will or has not pressed upon the applications which had been filed before the First Appellate Court under Order 41 Rule 27 CPC and under Order 6 Rule 17 CPC. The only argument is that being a nominee he alone would inherit the amount. The said argument is totally against the well settled principals of law. That being so, the argument stands rejected. No other point was argued.

11. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts concerned. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.01.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No