



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Reserved on : 29.07.2025
Pronounced on : 27.10.2025

1. RSA-3316-2008 (O&M)

Jagdev Singh and another Appellants

versus

Kashmir Kaur and others Respondents

2. RSA-3317-2008 (O&M)

Amarjit Kaur (since deceased) through her LRs and others

..... Appellants

versus

Kashmir Kaur and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Santosh Sharma, Advocate and
Mr. Varun Sandhu, Advocate
for the appellants.

Mrs. G.K. Mann, Senior Advocate with
Mr. Aditya Dassaur, Advocate and
Ms. Armaandeeep Kaur Sidhu, Advocate
for the respondent.

Mr. Amit Jhanji, Senior Advocate with
Ms. Priyanka Kansal, Advocate and
Ms. A.P.S. Sadhu, Advocate
for respondent No.1 in RSA-3316-2008 and
RSA-3317-2008.

Mr. A.S. Manaise, Advocate
for the applicant in CM-1138-C-2011
for respondent No.4 in RSA-3316-2008.

PANKAJ JAIN, J.

1. The afore captioned two appeals arise out of two different
suits between same parties relating to different parts of the land qua

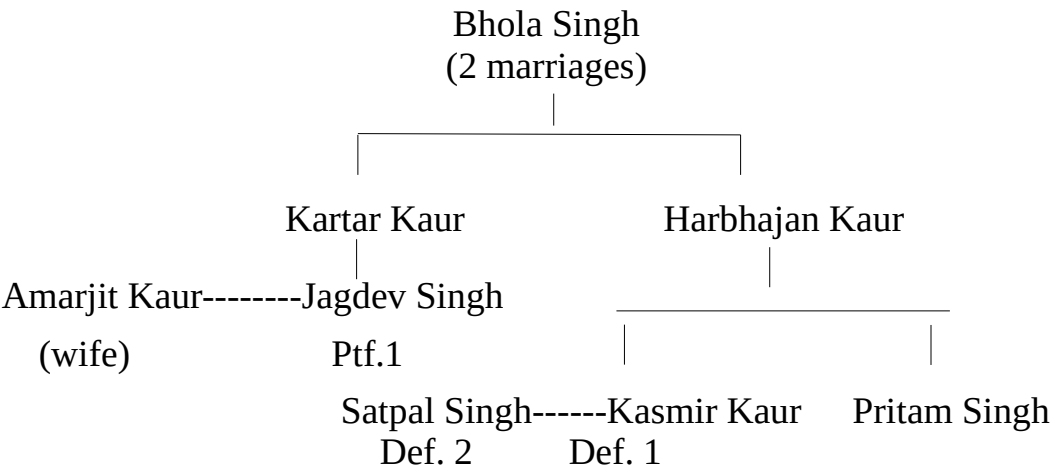


estate of Pritam Singh brother of plaintiff No.1 and defendant No.1.

2. Plaintiffs are in appeal. Civil Suit No.272 of 25.11.1994 was filed by the plaintiffs seeking decree of permanent injunction restraining defendants from illegally and forcibly interfering in their possession over the land measuring 172 Kanal 16 marlas, as detailed out in the headnote of the plaint. RSA No. 3316 of 2008 arises out of the said suit. Civil Suit No.271 was instituted on 26.11.1994 by Amarjit Kaur seeking decree of permanent injunction restraining defendants from illegally and forcibly interfering in her possession over land measuring 139 Kanal 02 marlas, as detailed out in the headnote of the plaint. RSA No.3317 of 2008 has arisen out of the said suit.

3. In both the suits, defendants filed counter claim, claiming right over the estate left by Pritam Singh. Civil suits filed by the plaintiffs have been dismissed, counter claims have been decreed. Both the appeals are at the behest of the plaintiffs. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the appellants as plaintiffs and respondents as defendants.

4. The following pedigree table depicts relationship between the parties to the *lis*:-





5. The issue involved in both the appeals is:-

(i) whether the defendant No.1-counter claimant is entitled to the estate of late Pritam Singh on the strength of Will dated 22.10.1994 and the effect of compromise dated 29.07.1994 which can be discerned from the statement made by Kashmir Kaur-defendant No.1 in RSA No.1317 of 1998 before this court on 29.07.1994?

6. Bhola Singh-father of the parties died on 24.02.1984. On 24.09.1984, Jagdev Singh and Pritam Singh filed Civil Suit No.69 of 1986 seeking declaration to the effect that they are owners in possession of land measuring 172 Kanal 16 marlas left by their father Bhola Singh on the basis of unregistered relinquishment deed dated 05.06.1981 and decree dated 09.03.1983. They also propounded Will executed by Bhola Singh in their favour. In said suit, the Trial Court found that Pritam Singh was suffering from mental infirmity and accordingly appointed next friend to watch his interest under Order XXXII Rule 15 CPC. The order is on record as Ex.D8. Vide Ex.D6 dated 15.06.1987, the suit filed by Jagdev Singh and Pritam Singh was partly decreed. Both Jagdev Singh and Pritam Singh along with their sister Kashmir Kaur were held entitled to succeed to the estate of Bhola Singh to the share of 1/3 each.

7. Dissatisfied with the judgment and decree D6, Jagdev Singh preferred appeal. The same was also dismissed. RSA No. 1713 of 1988 titled as '*Jagdev Singh and another vs. Kashmir Kaur*' and RSA No.2383 of 1988 titled as '*Amajit Kaur vs. Jagdev Singh*' were filed.

Both the RSAs were disposed off in view of compromise dated



31.05.1994. As per the same, Kashmir Kaur gave up her right in the estate of Bhola Singh in lieu of Rs.8,10,000/- and suffered the following statement on 29.07.1994:-

“I had a dispute regarding my share in the land with Jagdev Singh and Pritam Singh. I had filed R.S.A.No.2383 of 1988 in relation to this matter. My brothers had also filed an appeal against me, which is R.S.A. No. 1713 of 1988. My dispute with my brothers has now been settled by mutual compromise. I have agreed to relinquish my entire claim in the property in terms of the agreement dated May 31, 1994. The original agreement is mark 'C'. It bears my signatures at mark 'X'. I had received an amount of Rs. 1,50,000/- at the time of the execution of the agreement. Thereafter, I received another amount of Rs. 25,000/- in cash. I have today received a Pay Order No. 378364 dated July 25,1994 (State Bank of Patiala) Camp office Naushehra Maja Singh for an amount of Rs. 3,50,000/-. The remaining amount of Rs. 2,85,000/- has been paid to me in cash today. In view of this, I have no interest left in the property in dispute. My appeal i.e. RSA No. 2383 of 1988 may be dismissed as withdrawn and the appeal No.1713 of 1928 filed by my brothers may be allowed in terms of the compromise.”

8. The Regular second appeals were disposed off vide order dated 29.07.1994 which reads as under:-

“This order will dispose of R.S.A.Nos. 1713 of 1983 and 2383 of 1980. The dispute between the parties has been settled by mutual compromise marked ‘C’. In accordance with the compromise, an amount of Rs.8,10,000/- has been paid to Smt. Kashmir Kaur. In lieu of this payment of money, she



has relinquished her claim in respect of the property in dispute. Accordingly, R.S.A. No. 2383 of 1988 is dismissed as withdrawn and R.S.A. No.1713 of 1988 is allowed in terms of the compromise. In the circumstances of the case, there will be no order as to costs.”

9. In the present suit, plaintiff No.2 Amarjit Kaur has propounded Will, claimed to have been executed by Pritam Singh in her favour. In both the suits, Will propounded by the plaintiff has been discarded. Plaintiffs failed to prove that Pritam Singh was in sound state of mind on the date of execution of Will.

10. There is no major dispute regarding findings recorded by the Courts below qua Will propounded by plaintiff Amarjit Kaur. The issue raised by Mr. Akshay Bhan is based upon compromise dated 31.05.1994 and the order in terms of which RSA No. 1713 of 1988 and RSA No. 2383 of 1988 were disposed off. He claims that keeping in view the fact that Kashmir Kaur defendant No.1 relinquished her rights in the suit land, she cannot be allowed to turn back and claim share in the same.

11. In the considered opinion of this Court, the argument raised *sans* merit and cannot be accepted. The dispute involved in RSA No.1713 of 1988 and that in RSA No.2383 of 1988 related to succession of Bhola Singh-father of the parties. Kashmir Kaur being one of the natural heirs of Bhola Singh was entitled to succeed to the share of estate left by him along with her brothers, i.e. Jagdev Singh-plaintiff No.1 and late Pritam Singh. It is her entitlement to succeed to the estate left by Bhola Singh, which was relinquished by her vide



compromise dated 31.05.1994 and the statement suffered before this Court on 29.07.1994.

12. In the present *lis*, the dispute is with respect to the share left by Pritam Singh who died on 05.11.1994. The *lis* relates to different estate, though the same land. Compromise dated 31.05.1994 on the basis of which RSA No.2383 of 1988 and RSA No. 1713 of 1988 were disposed off cannot be read in the present *lis* to hold that Kashmir Kaur gave up her right even qua the succession of Pritam Singh. It is evident from the pedigree table reproduced in the earlier part of judgment that late Pritam Singh and Kashmir Kaur were real brother and sister. They are related by full blood. Defendant No.1-Jagdev Singh is related to Kashmir Kaur and Pritam Singh by half blood in terms of section 3(e) of the Hindu Succession Act 1956. The Will claimed to have been executed by late Pritam Singh propounded by plaintiff No.2 having been found to be surrounded by suspicious circumstances and discarded, succession of Pritam Singh has to abide by the provisions of Hindu Succession Act 1956. In terms of Section 18 of the Act, heirs related to an intestate by full blood have preference over the heirs related by half blood. Since Pritam Singh was unmarried in terms of entry-II in the Schedule appended to the Hindu Succession Act 1956, Kashmir Kaur has a preferential right to the estate of Pritam Singh, this Court finds no ground to interfere in the judgment and decree passed by the Courts below in both the appeals.

13. As a sequel of the discussion held hereinabove, both the appeals are ordered to be dismissed.



14. A photocopy of this order be placed on the file of other connected case.
15. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

27.10.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes