

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

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2025:PHHC:052311



**RSA-5097-2019 (O&M)
Date of decision: 24.04.2025**

MOHAN LAL

..Appellant

Versus

NATHU RAM AND OTHERS

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sherry K. Singla, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. The plaintiff assails the correctness of concurrent findings of fact arrived at by the Courts below while dismissing his suit for grant of decree of declaration that he along with defendant and proforma defendants are joint owners in possession of a shop left behind by Sh. Bhagwana Ram, their father.

2. In substance, the dispute is with regard to the inheritance of property left behind by Sh. Bhagwana Ram. He had two sons and six daughters. On 30.10.2009, Sh. Bhagwana Ram executed a registered Will in favour of his son Sh. Nathu Ram. The execution of the Will has been proved by examining PW-3 Sh. Deepak Kaushal, Scribe. DW-2 Sh. Gurcharan Singh, Nambardar, attesting witness and DW-3 Sh. Harkirat Singh, official of the office of Sub-Registrar. The plaintiff has admitted that Sh. Bhagwana Ram used to reside with Sh. Nathu Ram. Photographs of Sh. Bhagwana Ram has been appended on the registered Will. The identification of Sh. Bhagwana Ram is not in dispute.

3. Learned counsel for the appellant submits that Sh. Nathu Ram on 17.11.1998 executed an affidavit admitting that after the death of Sh.



Bhagwana Ram, the shop will be owned equally by two brothers namely Sh. Mohan Lal and Sh. Nathu Ram.

4. This Court has considered the submissions of learned counsel for the appellant.

5. Sh. Bhagwana Ram died on 10.02.2013. Sh. Nathu Ram was not the owner of the property. It was the property of Sh. Bhagwana Ram. The affidavit executed by Sh. Nathu Ram will not be binding upon Sh. Bhagwana Ram. Moreover, the plaintiff has not prayed for specific performance of undertaking which is in form of the affidavit.

6. Learned counsel for the appellant further submits that DW-2 Sh. Gurcharan Singh has stated that he went away after signing the Will and thereafter, signatures and thumb impressions of other persons were taken.

7. With the help of learned counsel for the appellant, this Court has read the statement of Sh. Gurcharan Singh, Nambardar. He has himself stated that first of all Sh. Bhagwana Ram thumb marked the Will and thereafter, he appended his thumb impression as a witness to the Will. Thus, Sh. Bhagwana Ram appended his thumb impression in the presence of Sh. Gurcharan Singh. Moreover, Sh. Gurcharan Singh was also present at the time of registration of the Will where Sh. Gurcharan Singh again thumb marked the Will.

8. Hence, no ground to interfere is made out.

9. Dismissed.

10. All the pending miscellaneous applications, if any, are also disposed of.

April 24th, 2025

(ANIL KSHETARPAL)
JUDGE

Ayub

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*