



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2461-2014 (O&M)

Date of decision : 26.08.2025

Naresh Goyal

..... Appellant

Versus

Satish Goyal & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Neeraj Sharma, Advocate
for the appellant.

Mr. Arihant Jain, Advocate and
Mr. Kanish Jindal, Advocate
for respondents No.1 & 2

PANKAJ JAIN, J. (ORAL)

1 Appellant-Plaintiff is in second appeal. For convenience parties hereinafter are referred to by their original position in the suit, i.e. the appellant as plaintiff and respondents as defendants.

2 Plaintiff is in second appeal aggrieved of the judgment and decree passed by the Courts below dismissing the suit filed by him seeking decree of declaration.

3 Plaintiff filed suit seeking decree of declaration claiming himself to be owner and in joint possession of the suit properties as mentioned in the head note of the plaint. Further prayer was for grant of decree of permanent injunction restraining defendants No.1 & 2 from alienating the suit properties in any manner.



4 Parties to the suit are all sons and daughters of Raghbir Chand, who are fighting for the estate left by him. Plaintiff claims himself to be owner and in joint possession being one of the successors of Raghbir Chand who died on 20.08.2005. Plaintiff claimed that the properties in the hand of Raghbir Chand were ancestral properties and after death of Raghbir Chand, plaintiff succeeded to his estate and became owner in joint possession. However, owing to the fact that he is residing and settled in USA, defendants No.1 & 2 are claiming their exclusive ownership to the exclusion of the plaintiff propounding WILL executed by Raghbir Chand which is a forged and fabricated WILL. Further plea raised was that the properties being ancestral, Raghbir Chand was not competent to execute the WILL bequeathing the same.

5 Suit was contested by defendants No.1 & 2. The daughters i.e. defendants No.3 & 4 opted not to contest the suit and were proceeded ex-parte. Defendants No.1 & 2 in their written statement, claimed Raghbir Chand to be the absolute owner of the properties. They claimed to have succeeded to the estate of Raghbir Chand on the basis of WILL dated 31.05.2005. During the pendency of the suit, on 22.07.2009 Naresh Goyal-plaintiff, agreed to the deletion of para Nos. 4 to 8 in his affidavit which amounted to abandonment of the plea that the properties are ancestral in nature.

6 In order to prove WILL, the defendants examined Rajiv Goel, one of the attesting witnesses. Courts below found that the defendants had successfully proved WILL in their favour and dismissed the suit filed by the plaintiff.



7 Counsel for the plaintiff has assailed findings recorded by the Courts below. Contention raised by Mr. Neeraj Sharma, Advocate is that a few months prior to execution of the WILL, Raghbir Chand was admittedly hospitalized, firstly in a local Hospital in Patiala and thereafter in Fortis Hospital in Mohali. Specific query was put to defendants regarding ailment and the period of hospitalization of Raghbir Chand. It was replied evasively by defendants. Mr. Neeraj Sharma, Advocate thus submits that the WILL, being surrounded by suspicious circumstances, ought not have been relied upon by the Courts below.

8 *Per contra*, Mr. Arihant Jain, Advocate for respondents No.1 & 2 submits that the WILL in question stands proved. One of the attesting witnesses, Rajiv Goel, appeared as DW2. The WILL in question is a registered WILL. Rajiv Goel proved the execution of the WILL in terms of Section 63 (C) of The Indian Succession Act, 1925. He testified with respect to mental and physical fitness of the executant Raghbir Chand. Not even a suggestion was put to him with respect to Raghbir Chand being incapacitated to understand the contents of the WILL.

9 I have heard learned counsel for the parties and have gone through the records of the case.

10 After order dated 22.07.2009, passed by the Trial Court whereby the plaintiff agreed to delete para Nos. 4 to 8 from his affidavit, the issue with respect to property being ancestral, does not exist in the present suit. The only issue is with respect to proof of the WILL dated 31.05.2005, propounded by defendants. WILL in original was produced as Ex.D2. Attesting witness Rajiv Goel, appeared as DW2. He was cross examined at



length. Though he was cross examined with respect to hospitalization of Raghbir Chand but not even a suggestion was put to him regarding Raghbir Chand being not in capacity to understand the contents of the WILL. Thus, this Court finds that the Courts below rightly recorded the finding that the WILL propounded by the defendants stands duly proved and have rightly dismissed the suit filed by the plaintiff.

11 Finding no merits in the present appeal, the same is ordered to be dismissed.

12 Pending miscellaneous application, if any, also stands disposed off.

26.08.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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