

2025:PHHC:175487



RSA-3858-2018 (O&M)

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3858-2018 (O&M)
Date of decision : 05.12.2025

Hazura Singh & ors.

..... Appellants

Versus

Naib Singh & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ashwani Kumar Chopra, Senior Advocate with
Mr. Vidul Kapoor, Advocate
for the appellants.

Mr. Binderjit Singh, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

1 Defendants are in second appeal. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the appellants as defendants and respondents as plaintiffs.

2 Plaintiffs filed suit seeking declaration to the effect that plaintiff No.1 is owner to the extent of $\frac{1}{2}$ share of the suit property and plaintiffs No.2 to 4 are owners to the extent of remaining $\frac{1}{2}$. The suit property was originally owned by Harnek Singh paternal uncle of plaintiff No.1 and brother-in-law of plaintiff No.2 and uncle of plaintiffs No.3 & 4. Harnek Singh died widower and issue-less intestate on 11.11.2005 leaving behind Mukhtiar Singh and Thana Singh-his real brothers as legal heirs. Mukhtiar Singh died on

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23.04.2006. Plaintiff No.1 is legal heir of Mukhtiar Singh. Thana Singh, the other brother, died on 13.04.2010, leaving behind plaintiffs No.2 to 4 as his legal heirs. The plaintiffs thus claimed that estate of Harnek Singh was inherited by his two brothers, namely Mukhtiar Singh and Thana Singh in equal share which has travelled to the plaintiffs accordingly. The defendants have started claiming to be owners of the suit land on the basis of a fabricated WILL alleged to have been executed by Harnek Singh. WILL dated 02.05.2005 registered on 29.12.2011 is a forged and fabricated document.

3 Suit was contested by the defendants who claimed ownership on the basis of WILL executed by Harnek Singh dated 02.05.2005.

4 The Courts below have discarded the WILL holding that the same is surrounded by suspicious circumstance. Ex.P1 sale deed dated 03.06.1988 executed by Harnek Singh in favour of one Geetan Singh shows that Harnek Singh used to thumb mark the documents. The same stands corroborated from sale deed bearing No.1160 dated 08.06.1989 (Ex.PW2/A) and sale deed Ex.PW2/B bearing No.520 dated 05.05.1992. The Courts below held that, it having been proved on record that Harnek Singh used to thumb mark the documents, the WILL bearing signatures of Harnek Singh cannot be relied upon and needs to be discarded.

5 Learned senior counsel for the defendants has assailed the findings recorded by the Courts below. He submits that the documents relied upon by the Courts below to hold that Harnek Singh used to thumb mark are dated 1988, 1989 and 1992. WILL propounded by the defendants is dated

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02.05.2005. Execution thereof has been proved by the defendants by examining scribe of the WILL Jodh Singh, who appeared as DW1 and attesting witness thereof as DW2. WILL in question is a registered WILL. He further submits that DW4 Sukhdev Singh, President of Gurdwara Sahib Bangi Nihal Singh was examined by the defendants who proved that Harnek Singh used to sign in Gurmukhi script. It is thus proved that subsequent to the year 1992, Harnek Singh learnt the script and started signing in Gurmukhi.

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

7 WILL dated 02.05.2005 propounded by defendants alleged to have been executed by Harnek Singh is in question. As per settled law, the propounder of a WILL is not only required to prove execution thereof in terms of Section 63 of the Indian Succession Act, 1925, but also needs to dispel suspicious circumstance, if any surrounding the WILL. In order to prove the WILL, defendants were required to prove execution thereof by Harnek Singh. All documents admittedly executed by Harnek Singh were thumb marked. The WILL in question is a signed document. Defendants were thus required to prove that prior to execution of the WILL, Harnek Singh learnt the script and started signing the documents. Though Sukhdev Singh, DW 4 appeared and claimed that Harnek Singh used to sign documents, but he could not produce any document to prove the same. He admitted that the only document signed by Harnek Singh is WILL which is in dispute. Thus, it is a case



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wherein executant admittedly was used to thumb mark the documents. There is no other document which can prove signatures of the executant.

8 In view thereof, this Court finds that the Courts below have rightly returned a pure finding of fact, based on evidence on record, that defendants-the propounders of the WILL failed to dispel the suspicious circumstance surrounding the WILL questioning signatures of Harnek Singh.

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

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

05.12.2025

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No