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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-69-2018 (O&M)

Reserved on : 30.10.2025

Date of Decision : 27.11.2025

Judgment Uploaded on : 27.11.2025

*Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced : **Full***

Jaswant Kaur

... Appellant(s)

VERSUS

Karamjit Kaur & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Manu Rattan, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been filed by the plaintiff-appellant aggrieved by the judgment and decree dated 11.05.2017 passed by the First Appellate Court reversing the judgement and decree dated 16.01.2015 passed by the Trial Court.

2. The plaintiff-appellant filed a suit for declaration that the plaintiff-appellant and the defendant-respondents are co-owners and in joint possession in equal shares in 220/1192 share out of land measuring 59 bighas 12 biswas comprised in the land fully described in the plaint on the basis of natural succession and further for declaration that the impugned registered Will dated 08.08.2011 alleged to have been executed by Gurjant Singh in favour of the defendant-respondent No.1 was illegal, null and void and ineffective and not binding on the rights of the plaintiff-appellant. Briefly, the facts relevant to the present lis are that Gurjant Singh was the son of the

plaintiff-appellant and husband of defendant-respondent No.1 and father of defendant-respondent No.2. The father of Gurjant Singh is stated to have transferred 10 bighas of land in his favour by way of a transfer deed and 01 bigha of land was sold to Gurjant Singh by way of sale deed. Gurjant Singh was stated to be 32-33 years of age and as per the case set up by the plaintiff-appellant he was hale and hearty. However, on 17.10.2011 Gurjant Singh died leaving behind the plaintiff-appellant and the defendant-respondents as his legal heirs. It was averred that mutation No.5725 was entered in the revenue record in favour of the plaintiff-appellant and the defendant-respondents on the basis of natural succession. However, defendant-respondent No.1 contested the mutation and claimed herself to be the only legal heir based on a registered Will dated 08.08.2011. It was the case set up that Gurjant Singh died two months after the execution of the Will which creates a doubt regarding the death of Gurjant Singh. It was further the case that there was no occasion for Gurjant Singh to have executed a Will at the young age of 32-33 years and that his death was also suspicious. It was further the case that in the Will, nothing had been left to the minor daughter (defendant-respondent No.2) and the mother (plaintiff-appellant herein) of Gurjant Singh.

3. On notice, the defendant-respondents appeared and filed their written statement raising various preliminary objections. It was the stand taken that Gurjant Singh remained unwell and due to this reason, he executed a registered Will. It was further the stand that after the death of Gurjant Singh, the plaintiff-appellant alongwith her husband – Avtar Singh – adopted one Gurpreet Singh son of Sukhwinder Kaur and the plaintiff-appellant wanted to dispossess the defendant-respondents from the suit land at the instance of Gurpreet Singh. It was further the stand that a civil suit had already been filed

defendant-respondent No.1 against the plaintiff-appellant and the said Gurpreet Singh for permanent injunction. It was further the stand taken that Gurjant Singh was ill for the last 2-3 years and was suffering from severe abdomen pain and, therefore, had executed the Will.

4. Replication was filed reiterating the averments made in the plaint and denying the averments made in the written statement. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether plaintiff is entitled to declaration as prayed for ? OPP
2. Whether plaintiff is entitled to permanent injunction as prayed for ? OPP
3. Whether deceased Gurjant Singh executed a registered Will dated 08.08.2011 in favour of defendant no.1 ? OPD
4. Whether the suit is not maintainable ? OPD
5. Relief.

5. The Trial Court decided all the issues together. It was held by the Trial Court that the Will did not appear to be genuine as the plaintiff-appellant and the minor daughter (defendant-respondent No.2 herein) of Gurjant Singh had been left out and, hence, decreed the suit vide judgment and decree dated 16.01.2015 setting aside the Will dated 08.08.2011. Aggrieved by the same, an appeal was preferred by the defendant-respondents which was allowed by the First Appellate Court vide the judgment and decree dated 11.05.2017. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant would contend that the plaintiff-appellant was the mother of Gurjant Singh, however, in the Will

there was not a word regarding the mother, and nothing was left by Gurjant Singh to his mother or his minor daughter. Learned counsel would further contend that defendant-respondent No.1 was in an illicit relationship with one Amandeep Singh and that they had poisoned Gurjant Singh as he was objecting to the illicit relationship between defendant-respondent No.1 and Amandeep Singh. A complaint in this regard was stated to have been lodged on 24.04.2017 to the Senior Superintendent of Police, Sangrur which has now been appended along with an application for additional evidence being CM No.13493-C of 2025.

7. I have heard the learned counsel for the plaintiff-appellant.

8. In the present case the only ground on which the Trial Court had discarded the Will was that the natural heirs had been excluded from the Will. The Will was a registered Will which was duly proved by DW1-Ranjit Singh, marginal witness, DW4-Kaur Singh, the second marginal witness, DW3-Bhupinder Sharma, the deed writer. The statements of all the witnesses had been appended along with the present appeal. A perusal of the statement of Ranjit Singh, who appeared as DW1, reveals that despite lengthy cross-examination, nothing could be elicited from his cross-examination that he was not a witness to the Will or that the Will had not been executed in accordance with law. Similarly, the statement of the marginal witness, Kaur Singh who appeared as DW4, also reveals that he had clearly stated regarding the attestation of the Will. Even in his cross-examination nothing could be elicited. Even the deed writer - Bhupinder Sharma - stepped into the witness box as DW3, who identified his signature and stamp on the original Will (Ex.D1). He also brought the register of the deed writing. The entry regarding the Will dated 08.08.2011 was entered in the said register and a certified copy

of the register was exhibited as Ex.D3. The deed writer also proved the due execution of the Will. Karamjit Kaur (defendant-respondent No.1 herein) herself stepped into the witness box as DW2. A perusal of her cross-examination reveals that she was not present at the time of the execution of the Will which fact was also stated by the deed writer in his cross-examination. In the cross-examination of DW2-Karamjit Kaur, there is not even a suggestion put to her regarding any illicit relationship with Amandeep Singh as is now sought to be argued by the learned counsel for the plaintiff-appellant.

9. The argument raised that since the natural heirs have been ignored in the Will that would itself constitute a suspicious circumstance is noticed to be rejected. A Will is executed only to alter the ordinary mode of succession and the reason a Will is executed is to either exclude or include certain heirs. A person who wishes that his property should go by way of natural succession needn't execute a Will at all. Hon'ble Supreme Court in the case of **Uma Devi Nambiar & Ors. Vs. T.C. Sidhan (Dead) [(2004) 2 SCC 321]** has held as under :

“ 16. A Will is executed to alter the ordinary mode of succession and by the very nature of things it is bound to result in either reducing or depriving the share of natural heir. If a person intends his property to pass to his natural heirs, there is no necessity at all of executing a Will. It is true that a propounder of the Will has to remove all suspicious circumstances. Suspicion means doubt, conjecture or mistrust. But the fact that natural heirs have either been excluded or a lesser share has been given to them, by itself without anything more, cannot be held to be a suspicious circumstance especially in a case where the bequest has been made in favour of an offspring. As held in P.P.K. Gopalan Nambiar v. P.P.K. Balakrishnan

Nambiar and Ors. (AIR 1995 SC 1852) it is the duty of the propounder of the Will to remove all the suspected features, but there must be real, germane and valid suspicious features and not fantasy of the doubting mind. It has been held that if the propounder succeeds in removing the suspicious circumstance, the Court has to give effect to the Will, even if the Will might be unnatural in the sense that it has cut off wholly or in part near relations (See Puspavati and Ors. v. Chandraja Kadamba and Ors. (AIR 1972 SC 2492). In Rabindra Nath Mukherjee and Anr. v. Panchanan Banerjee (dead) by LRs. and Ors. (1995 (4) SCC 459), it was observed that the circumstance of deprivation of natural heirs should not raise any suspicion because the whole idea behind execution of the Will is to interfere with the normal line of succession and so, natural heirs would be debarred in every case of Will. Of course, it may be that in some cases they are fully debarred and in some cases partly.”

10. Further, in the case of **Swarnalatha & Ors. Vs. Kalavathy & Ors. [2022(2) RCR (Civil) 603]** the Hon’ble Supreme Court has held as under:

“ 21. When it was not even the case of the respondents that the testators were not in a sound and disposing state of mind, the High Court found fault with the appellants for not disclosing the nature of the ailments suffered by them. The exclusion of one of the natural heirs from the bequest, cannot by itself be a ground to hold that there are suspicious circumstances. The reasons given in Exhibit P-1 are more than convincing to show that the exclusion of the daughter has happened in a very natural way. If Exhibit P-1 (Will) had been fabricated on blank papers containing the signatures of the mother, there would have been no occasion for the father to make a mention in his

own Will (Exhibit P-2) about the execution of the Will by the mother.”

11. Learned counsel for the plaintiff-appellant has not been able to point out any discrepancies in the statements of the witnesses who duly proved the execution of the Will. The only argument raised was that the exclusion of the natural heirs was suspicious. Exclusion of natural heirs, as held by the Supreme Court, by itself would not be a suspicious circumstance. Learned counsel for the plaintiff-appellant has not been able to point out to any evidence which has been brought on the record by the plaintiff-appellant herself to even remotely suggest that the Will was shrouded by suspicious circumstances. All the witnesses spoke about the illness of Gurjant Singh and there was a medical record which was produced on the record to substantiate the same.

12. In view of the above and in the absence of any cogent and relevant evidence to even remotely suggest that the Will was shrouded by suspicious circumstances, this Court does not find any reason to interfere in the findings returned by the First Appellate Court. 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.

27.11.2025

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO