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

Date of decision: 17.11.2025

RSA-2590-2022 (O&M)

RSA-2591-2022 (O&M)

JASWANT SINGH AND ANOTHER

....Appellants

Versus

GURKIRAL KAUR

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. M.L. Saggar, Sr. Advocate with
Mr. Armaan Saggar, Advocate and
Mr. Omesh Garg, Advocate
for the appellant(s).

Mr. Akshit Pathania, Advocate for
Mr. Vivek K. Thakur, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

The present appeals arise out of suits filed by the respondent Gurkirpal Kaur seeking recovery of 1/3rd share in the produce/crop and for the use and occupation charges in the suit land.

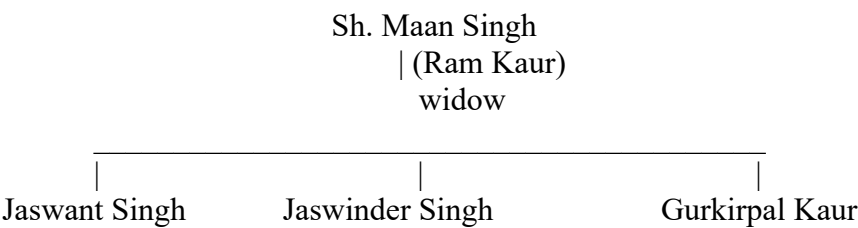
2. For convenience, the parties hereinafter are referred to as by their original position before the Court of First Instance, i.e., the appellants as 'defendants and the respondent as 'plaintiff'.

3. Appellants/defendants claimed ownership over the suit land on the basis of WILL which was subject matter of separate suits.



3. Counsel for the parties are *ad idem* that the share of the plaintiff/sister Gurkirpal Kaur, now stands settled in RSA No.4976 of 2015 titled as **‘Ram Kaur (since deceased) through her LRs and others vs. Gurkirpal Kaur’** vide judgment dated 28.04.2025 whereby this Court observed as under:

- “1. xxxx
- 2. The following genealogy illustrates the inter se relationship between the parties:-



3. It is evident that Sh.Maam Singh was the owner of the property. He died on 22.04.1975. He left behind his widow, two sons and one daughter. The daughter filed the suit. The defendants contested the suit on the ground that Sh.Maam Singh executed a Will on 03.12.1974 bequeathing his property in favour of his widow and two sons. Subsequently, Smt.Ram Kaur widow also transferred her 1/3rd share in favour of her two sons vide registered transfer deed dated 27.05.2002.
4. Both the courts have held that the Will dated 03.12.1974 allegedly executed by Sh.Maam Singh has not been proved, although, it was registered after his death. Both the attesting witnesses of the Will have not been examined. The defendants have also not produced evidence to prove the Will in accordance with Section 69 of the Indian Evidence Act, 1872. The propounders were required to prove that the attestation of one of the attesting witnesses atleast was in his handwriting and signatures of the testator is also in his handwriting. Thus, there is



no error in the concurrent findings of fact with regard to failure of the defendants to prove the Will.

5. However, the courts below have taken an unconventional view. Smt. Ram Kaur widow of Sh.Maam Singh transferred her 1/3rd share in favour of her two sons namely Jaswant Singh and Jaswinder Singh on 27.05.2002. The courts have held that since the Will is not proved, hence, the transfer is also illegal. The courts have not found that the transfer was not executed and registered in accordance with law. Even if Smt.Ram Kaur inherited 1/4th share out of the property left behind by Sh.Maam Singh, the transfer deed which was with respect to 1/3rd share shall be valid qua 1/4th share. There was no reason for the courts below to discard the transfer deed on the ground that it was executed with respect to 1/3rd share. 1/4th share is smaller than 1/3rd share. The transfer deed to the extent of share of Smt. Ram Kaur i.e 1/4th share is valid. Hence, the appeal is partly allowed. The plaintiff's suit qua 1/4th share shall stand decreed whereas the remaining 3/4th share will be owned by the two sons of Sh.Maam Singh namely Jaswant Singh and Jaswinder Singh in equal shares.

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4. In view of above, plaintiff is held to be entitled to 1/4 share of Rs.21,09,767/- in RSA No.2590 of 2022.

5. She is further held entitled to 1/4th share in amount of Rs.12,47,998/- in RSA No.2591 of 2022.

6. Ld. Senior Counsel representing the appellants raises grievance w.r.t. interest of 12% per annum, granted by the Courts below for the period prior to filing of the suits.

7. Having heard counsel for the appellant, this Court finds that the plaintiff is entitled for interest on the amount to which she has been held



entitled @ 9% per annum from 11.02.2013 till the date of actual realization in RSA No.2591 of 2022.

- 8. In RSA No.2590 of 2022 the interest payable shall be 9% per annum from 11.02.2013 till the date of actual realization.
- 9. So far as the issue raised by Ld. Senior Counsel appearing for the appellants regarding share of tenant to be deducted while ascertaining the entitlement of the plaintiff is concerned, the same is against the record. In the Revenue record there is no mention of any tenant in the column of cultivation. The land is shown to be under self-cultivation. The argument raised thus being against the record, is rejected.
- 10. With the aforesaid modification in the impugned judgment and decree passed by the Courts below, the present appeals are disposed off.
- 11. Pending application, if any, shall also stands disposed off.
- 12. A copy of this order be kept on the file of other connected case.

November 17, 2025						(Pankaj Jain)
Dpr						Judge
	Whether speaking/reasoned	:		Yes/No		
	Whether reportable	:		Yes/No		