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

RSA No.3773 of 2025 (O&M)

Date of Decision : 01.12.2025

Bhateri and another

....Appellants

Versus

Bhagat Ram and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kartar Singh, Advocate
for the appellants.

PANKAJ JAIN, J. (Oral)

Plaintiffs are in second appeal.

2. For convenience and to avoid confusion, the parties hereinafter are referred to as by their original position before the Court of First Instance, i.e., the appellants as plaintiffs and the respondents as defendants.

3. Plaintiffs filed suit seeking declaration to the effect that they are owner in possession of the suit land as described in the headnote of the plaint to the extent of their share being legal heirs of Risal Singh son of Makhan Lal and that the WILL bearing Document No.203, dated 27.09.2006 executed by Makhan Lal, is illegal, null and void and not binding upon their rights and interest. Further relief prayed was decree of permanent injunction

2025/PHHC/1/2024



restraining defendants from alienating, creating any kind of encumbrances over the suit land.

4. As per the plaint, Makhan Lal was owner in possession of the suit land. It was ancestral property in his hands. He left behind three sons namely Risal Singh, Bhagat Ram, Nihal Singh and two daughters namely Smt. Kamla and Smt. Bimla and widow namely Sona Devi. Risal Singh died on 30.04.2000. Risal Singh married Ram Murti and had a son Varun, defendant No.6, from his first marriage. Risal Singh, thereafter, performed second marriage with Bhateri plaintiff No.1. From the second marriage, plaintiff No.2 Renuka was born. Plaintiffs thus claimed to be legal heirs of Risal Singh and claimed their right to inherit share from the ancestral property of Makhan Lal.

5. As per the plaint, Makhan Lal died on 02.03.2000 intestate. As per plaintiffs, defendants illegally propounded WILL bearing document No.203, dated 27.09.2006 claimed to have been executed by Makhan Lal. The WILL is a result of fraud and is surrounded by suspicious circumstances and not binding upon the rights of the plaintiffs.

6. Suit was contested by defendants No.1, 2 and 6 by filing joint written statement. As per defendants, plaintiffs have no concern with the family of Makhan Lal. In the year 1994, Risal Singh lost his wife. He deserted his family and son Varun. He was involved in a murder case of Narsi son of Ram Narain. He was sentenced. He died in jail. There was no

2025/PHHC/1/2024



matrimonial relationship between Risal Singh and plaintiff No.1. She is rather wife of one Gopi Ram, who has no concern with the property in question. It was further claimed that the plaintiffs not being in possession of even an inch of the land, the present suit without seeking possession, is not maintainable.

6.1. In the written statement, it has been claimed that Makhan Lal executed valid WILL which was duly registered at Sr. No.696, dated 27.09.2006. Mutation was sanctioned *qua* estate left by Makhan Lal on the basis of WILL. The property in dispute being self-acquired property of Makhan Lal, he was fully competent to bequeath the same in favour of his legal heirs.

7. Defendants filed counter claim seeking decree of permanent injunction against plaintiffs from interfering in the peaceful possession of the defendants.

8. Suit filed by the plaintiff was put to trial by the Court of First Instance, framing following issues:

- “1. Whether the plaintiffs are entitled to the decree of declaration to the effect that the plaintiff No.1 being widow and plaintiff No.2 being daughter of Risal Singh predeceased son of Makhan Lal son of Nandu Ram are owner in possession to the extent of their share in the suit land on the basis of inheritance?OPP.
2. Whether the plaintiffs are entitled to permanent injunction as prayed for?OPP.
3. Whether the Will bearing No.203 dated 27.09.2006 was validly executed by Makhan Lal? OPD

2025/PHHC/176321



4. Whether the suit of the plaintiffs is not maintainable in its present form? OPD.
5. Whether the plaintiffs have no cause of action and locus standi to file the present suit? OPD
6. Whether suit of the plaintiffs is bad for non-joinder of necessary parties? OPD
7. Whether the plaintiffs are estopped by their own act and conduct from filing the present suit? OPD.
8. Whether suit of the plaintiff is time barred?OPD
9. Whether the counter claim filed by the defendants is liable to be decreed as prayed for? OPD
10. Relief.”

9. The Court of First Instance decided Issues No.1, 2 and 9 against the plaintiffs and in favour of the defendants. Issue No.3 has been decided in favour of the defendants. Resultantly, the suit was dismissed.

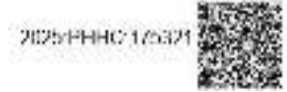
10. Unsuccessful plaintiffs approached Lower Appellate Court.

11. Lower Appellate Court affirmed the findings recorded by the Court of First Instance and dismissed the appeal.

12. Aggrieved of the judgment and decree passed by the Courts below, plaintiffs are before this Court in second appeal.

13. In the considered opinion of this Court, the issue relates to competence of Makhan Singh/Makhan Lal to execute WILL dated 27.09.2006 and its validity thereof.

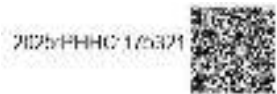
14. The competence of Makhan Lal to execute the WILL is being challenged claiming the land to be ancestral in nature. Plaintiffs, who assert



the land in the hands of Makhan Lal, were required to prove so. Apart from bald plea, no evidence was led by the plaintiffs to prove that the suit property in favour of Makhan Lal was ancestral in nature. In the absence of there being any cogent evidence to prove otherwise, Makhan Lal is held to be absolute owner of suit property. It is held that the property in his hands was a self-acquired property and not an ancestral property as claimed by the plaintiffs. Defendants in order to prove validity of WILL proved that Makhan Lal died on 02.03.2013. The same is so proved by death certificate produced by the plaintiffs themselves, Exhibit P-4.

14.1. As per settled law, the propounder of the WILL is required to prove execution thereof in terms of Section 63(c) of the Indian Succession Act, 1925 by leading cogent evidence in terms of Section 68 of the Indian Evidence Act, 1872. The propounder is also required to dispel suspicious circumstances, if any, surrounding the WILL.

14.2. In order to prove the WILL, defendants examined one of the attesting witnesses namely Subhash Chander, who appeared as DW2 and scribe of the WILL Madan Lal Madaan as DW3. Subhash Chander while appearing as DW2 proved that Makhan Singh got the WILL typed from scribe Madan Lal, in his presence. The WILL was read over to the executor, who thereafter thumb-impressed the same. The attesting witnesses i.e., DW2 Subhash Chander and Ram Sarup then affixed their signatures on the WILL. They were produced before the Sub Registrar. After due inquiry,



Sub Registrar, registered the WILL. Scribe Madan Lal appeared as DW3. He corroborated the testimony of DW2. He produced copy of his register w.r.t. Entry No.696 dated 27.09.2006 regarding WILL as Exhibit D1/A. The Courts below accordingly, held that Makhan Lal executed valid registered WILL, dated 27.09.2006 bearing document No.203.

15. In view of the fact that Makhan Lal is held to be absolute owner of the property, in question, WILL propounded by the defendants, Exhibit D1, have been proved to be valid and genuine, this Court finds that the relationship between plaintiffs and Risal Singh has no bearing on the fate of the present *lis*. The plaintiffs are seeking inheritance of the property left behind by Makhan Lal through Risal Singh. Once Makhan Lal left nothing for Risal Singh and executed WILL in favour of defendants, plaintiffs cannot claim any right, title or interest in the estate left by Makhan Lal through Risal Singh.

16. Resultantly, finding no merit in the present appeal, the same is ordered to be dismissed.

17. Pending application, if any, shall also stand disposed off.

December 01, 2025
Dpr

(Pankaj Jain)
Judge

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