



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

153

**CR-8253-2025 (O&M)
Date of decision : 27.11.2025**

Raj Kumar and another

..... Petitioners

versus

Ms. Poonam Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. B.B. Bagga, Advocate
for the petitioners.

Mr. Parvinder Singh Guliani, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. Challenge is to the order dated 24.09.2025 (Annexure P-3) passed by Civil Judge (Senior Division), Chandigarh whereby application filed by the plaintiff seeking leave to engage handwriting expert for examination of signatures on the unregistered Will dated 10.08.2018 stands rejected.

2. Plaintiff filed suit seeking decree of declaration to the effect that the Will dated 10.08.2018 executed by Balbir Singh, is illegal, null and void.

3. While leading evidence, plaintiff moved present application seeking permission for examining handwriting expert and to permit the expert to examine signatures on the Will dated 10.08.2018. The same has been dismissed by the Trial Court holding that the plaintiff in his pleadings having not disputed the signatures of the



raised in the pleadings.

4. I have heard counsel for the parties and have carefully gone through the records of the case.

5. In the plaint, challenge to the Will has been raised pleading as under:-

“8. That with regard to the fabricated nature of the document i.e. Will dated 10.08.2018, it is submitted that the Will is propounded to have been executed by a person of sound mind at the time of drafting and signing of the Will. The facts bear out that the said Will is totally silent about the nature and details of the pending litigation in respect of the property comprised in SCF 13, Sector 22-D, Chandigarh, including the question of right to pursue/defend the pending litigation. The said Will dated 10.08.2018, also reveals that the testator has either deliberately concealed the true facts or was reluctant due to importunity on the part of the defendant to mention the facts and documents, signed by him regarding the title and possession about said property i.e. SCO No.13, Sector 22-D, Chandigarh, in favour of the plaintiffs. A person authoring a Will as a testator cannot, in normal circumstances, be treated as ignorant of the legal consequence and effect of execution of various documents in favour of the plaintiffs as well as question of consideration actually received by him. The unregistered Will dated 10.08.2018, also does not refer to an earlier registered Will dated 07.08.2002, executed by the same testator in favour of the plaintiffs. Will dated 10.08.2018, is a clever step-in-aid devised by the present defendant, to pursue her frivolous, illegal and vexatious claims in respect of the property described as SCF 13, Sector 22-D, Chandigarh. In this regard, the text relevant sections of Indian Succession Act, 1925, which *per se* elucidate the infirmities in the so-called Will dated 10.08.2018, are reproduced hereunder:-

“Section 61- Will obtained by fraud, coercion importunity.-A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Section 78- Rejection of erroneous particulars in description



of subject.-If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Section 122- Onerous bequests.-Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully. Illustration A, having shares in (X), a prosperous joint stock company and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies; B refuses to accept the shares in (Y). He forfeits the shares in (X).”

The Will dated 10.08.2018, is patently invalid on the anvil of aforesaid provisions of law.

9. That Section 152 of Indian Succession Act, which is relevant to the facts in controversy, is reproduced hereunder for convenient reference of the Hon'ble Court:-

“Section 152 in The Indian Succession Act, 1925:-

152. Ademption explained.-If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect, by reason of the subject-matter having been withdrawn from the operation of the Will. Illustrations

(i) A bequeaths to B- "the diamond ring presented to me by C"; "my gold chain"; "a certain bale of wool"; "a certain piece of cloth"; "all my household goods which shall be in or about my dwelling-house in M. Street in Calcutta, at the time of my death". A in his life-time, sells or gives away the ring; converts the chain into a cup; converts the wool into cloth, makes the cloth into a garment; takes another house into which he removes all his goods. Each of these legacies is adeemed

(ii) A bequeaths to B- "the sum of 1,000 rupees, in a certain chest"; "all my horses in my stable". At the death of A, no money is found in the chest, and no horses in the stable. The legacies are adeemed.



(iii) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A A is drowned. The legacy is adeemed."

10. That apparently as per agreement dated 07.08.2002, said Sh. Balbir Singh sold his rights and interests in the said property to the plaintiffs. The said Sh. Balbir Singh alongwith his brother Harmohinder Singh had also unconditionally accepted full and final consideration of the said sale of the property in favour of the plaintiffs. The Will in question is devoid of even the factual details relating to the property in question.

11. That the said Sh. Balbir Singh and Harmohinder Singh additionally executed the following documents in favour of the plaintiffs:-

- (i) A agreement to sell dated 07.08.2002 in favour of plaintiff
- (ii) A receipt dated 07.08.2002, of Rs. 20 lakhs
- (iii) Registered General Power of Attorney dated 7.8.2002 in favour Prithi Chand and Vishwa Mitter
- (iv) Registered Special Power of Attorney dated 7.8.2002 in favour Vishwa Mitter & Prithvi Chand.
- (v) Will dated 07.08.2002 of Sh. Balbir Singh.
- (vi) Will dated 07.08.2002 of Sh. Harmohinder Singh.
- (vii) Attested affidavits dated 07.08.2002 of Sh. Balbir Singh and Sh. Harmohinder Singh.

Copies of the said documents are marked and enclosed herewith as **Annexure P-6** to **Annexure P-12**, respectively.

12. That the said Sh. Balbir Singh and Harmohinder Singh voluntarily delivered the following original documents to the plaintiffs:-

- (i) Allotment of commercial site dated 15.03.1958 NO 1803/CP952.
- (ii) Conveyance Deed dated 25.11.1960.
- (iii) Sale deed dated 20.01.1961.
- (iv) Agreement for Sale dated 07.11.1963.
- (v) Sale deed dated 10.12.1963.

Copies of the said documents are marked and enclosed herewith as **Annexure P-13** to **Annexure P-17**, respectively.

13. That the said Sh. Balbir Singh and his brother



Harmohinder Singh also unconditionally delivered possession of SCF NO. 13, Sector 22-D, Chandigarh, to the plaintiffs in pursuance to the agreement to sell dated 07.08.2002.

14. That for all intents and purposes all rights, claims, interests as well as incidental and ancillary rights stood absolutely transferred and vested in favour of the plaintiffs. Thus Sh. Balbir Singh stood divested of all such material and valuable rights including right to possession as the same stand vested absolutely in the plaintiffs.”

6. From the above, it is evident that there is no foundational assertion raised in the plaint that can constitute basis for allowing the application filed by the plaintiff. Once the plaintiff in the pleading, failed to dispute the signatures of late Balbir Singh, he cannot be allowed to lead evidence to dispute the same.

7. In view of above, no fault can be found with the impugned order passed by the Trial Court.

8. Consequently, the present revision petition is ordered to be dismissed.

9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

27.11.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No