

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****132****RSA-1103-2023 (O&M)****Date of decision: 19.01.2026****Soma****...Appellant(s)****Vs.****Pala Ram and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. P.K.Ganga, Advocate
for the appellant.

NIDHI GUPTA, J.

Plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned Courts below; whereby suit filed by the appellant for declaration with consequential relief of permanent prohibitory injunction, has been dismissed by both the Courts below.

2. It is submitted by learned counsel for the appellant that by way of the instant suit, appellant had sought declaration that she is owner of 1/4th share of agricultural land being real daughter of Patori Devi. Learned counsel submits that Patori Devi had died on 27.07.1993; whereafter defendants/respondents on the basis of alleged Will dated 02.07.1993 had become owners of the suit land. Learned counsel submits that plaintiff had duly proved on record that the said Will dated 02.07.1993 propounded by defendants No.1 and 2 was a forged Will as the same was got executed by the said defendants when Patori Devi was ill and was suffering from Cancer. It is pointed out that the said Will was



challenged on ground of fraud by Gopal/another brother of the plaintiff and son of Patori Devi. However, the said suit was got compromised on 11.01.2001 and was, therefore, dismissed as withdrawn. Learned counsel contends that it was only in June 2014 that the appellant came to know that the said suit had been dismissed. Accordingly, appellant had preferred instant suit forthwith on 02.09.2014 itself. As such, learned Courts below have wrongly and illegally decide the case against the appellant only on ground of limitation which is totally contrary to law and deserves to be set aside.

3. Learned counsel for the appellant further submits that the appellant examined PW-2 and PW-3 who brought on record the registered Will No. 66 dated 02.07.1993 (Ex. P-9), and Power of Attorney No. 189 dated 02.07.1993 (Ex. P-10) and Release Deed No. 7762 dated 12.02.2001 (Ex. P-11) and proved that the alleged Will is forged and fabricated. But the courts below have wrongly held that the appellant has not proved the Will as forged and fabricated and the alleged Will is not binding on the legal rights of the appellant. It is argued that courts below have not applied their mind by discarding the evidence and arguments of the appellant and wrongly and illegally dismissed the suit.

4. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.



5. No other argument is raised by learned counsel for the appellant. I have heard ld. counsel and perused the case filed in detail. I find no merit in the submissions advanced on behalf of the appellant.

6. It was the pleaded case of the appellant in the plaint that the appellant is a real daughter of Patori Devi who was owner of 218 K and 12 M of land; and after death of Patori Devi, plaintiff had become owner of 1/4th share of agricultural land of 54K and 13M. It was further alleged by the plaintiff that the Will dated 2.7.1993 propounded by the defendants no.1 and 2, was a forged and fabricated document; and therefore, the consequential mutation was illegal. Accordingly, plaintiff had filed present suit for declaration and permanent injunction on 02.09.2014.

7. It is not disputed that Patori Devi was absolute owner of the suit land. As such, Patori Devi was fully competent to execute the impugned Will No.66 dated 02.07.1993 Ex.P9, as per which, the suit property had been bequeathed by Patori Devi upon defendants No.1 and 2. It has also come on record that pursuant to the said Will, Mutation was entered in favour of defendants No.1 and 2. The said Will No.66 dated 02.07.1993 Ex.P9 was challenged by the plaintiff by way of the present suit filed 21 years after the execution of the said Will. It has also come on record that the said Will was brought to the knowledge of the plaintiff and the family immediately after the death of Smt. Patori Devi on 27.07.1993. Yet no explanation has been given by the plaintiff as to why the suit has been filed after a delay of 21 years.



8. It has also come on record that the said Will had previously been challenged by Gopal, another brother of the plaintiff and defendants No.1 and 2, by way of previous **Civil Suit filed in 1994** titled as **Gopal vs. Ram Kumar and others**; which was got dismissed as withdrawn vide order dated 11.01.2001. It was the case of the appellant that she had got knowledge of the said Civil Suit only in the year 2013. However, the said contention of the plaintiff does not inspire confidence as in the said previous suit, which was withdrawn in 2001, plaintiff has also been mentioned as perma defendant. Moreover, being real sister of Gopal, it is improbable that plaintiff would not have knowledge of the said suit; especially when both Gopal and the plaintiff had laid challenge to the Will dated 02.07.1993. Moreover, plaintiff in her testimony as PW1 has admitted that previous case was filed 15-20 years ago and Gopal had withdrawn the said case as the matter was compromised between them. From this deposition alone, it is proved that plaintiff had knowledge of the previous suit and execution of the Will. Moreover, plaintiff or perma defendants/LRs of Gopal had never challenged order dated 11.01.2001.

9. Furthermore, Plaintiff has even failed to plead any cogent suspicious circumstances. On the other hand, defendants have duly proved the execution of the Will in question by examining DW1 Ompati; DW2 Anil Kumar, Deed Writer; DW3 Mahender Singh, Attesting Witness; DW4 Pala Ram; and DW5 Yashpal Chand Jain, Handwriting & Fingerprint Expert. As per the said witnesses, Will was duly examined by Smt. Patori Devi; and stamp paper was also bought by her. Thumb impression of Smt.

Patori Devi upon the Will was also proved by the defendants. Deed Writer DW2 had duly deposed that the Will No. 66 dated 02.07.1993 was drafted by him on the asking of Patori Devi. After drafting the same, contents of the same were read over to Patori Devi, who admitted the same to be correct and had duly put thumb impression upon the said Will. Anil Kumar further deposed that entry of this Will was made in his Register at Sr. No. 384 dated 02.07.1993 which was proved as Ex.D2. As such, except for the bald statement, plaintiff was unable to prove that the said Will was surrounded in suspicious circumstances or that it was fraudulent. Plaintiff was unable to prove that Will dated 02.07.1993 Ex.P9 did not bear thumb impression of Patori Devi. Thus, defendants were able to prove their case.

10. Lastly, it is to be noted that the Will No. 66 dated 02.07.1993 Ex.P9 is a registered document. Therefore, presumption of truth and genuineness is attached to the same.

11. Learned counsel for the appellant is unable to dispute or controvert the above said factual and legal position.

12. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees, and findings of fact of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

13. Pending applications, if any, stand disposed of.

19.01.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE