



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

**RSA-1895-1993 (O&M)
Date of decision: 16.03.2026**

Ram Nath (deceased) through LRs

....Appellant

Versus

Madan Mohan (deceased) through LRs and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Aggarwal, Sr. Advocate
with Mr. Anmol Rattan S. Dhillon, Advocate
and Mr. Vishal Pundir, Advocate
for the appellant(s).

Mr. Baldev Raj Mahajan, Sr. Advocate
with Ms. Nikita Goel, Advocate for respondents No.1 to 3.

HARPREET SINGH BRAR J. (Oral)

1. The present Regular Second Appeal has been preferred by the appellant/plaintiff against the judgment and decree dated 07.05.1991 passed by the learned Sub Judge Ist Class, Ajnala and the judgment dated 25.01.1993 passed by the learned Additional District Judge, Amritsar, whereby the suit filed by the plaintiff for declaration, joint possession and permanent injunction was partly decreed and the appeal preferred by the plaintiff has been dismissed.

2. The facts relevant for disposal of the present appeal are that the plaintiff (appellant herein) filed a suit pleading that the suit property was ancestral and joint Hindu family property, originally owned by Duni Chand and thereafter, inherited by Niranjana Dass, father of the plaintiff, who acted as *Karta* of the joint Hindu family. The plaintiff,



being a coparcener in the property, acquired a right by birth in the suit property. It was further pleaded that during his lifetime, Niranjn Dass had executed a Will dated 08.07.1985 in favour of the plaintiff and others. However, subsequently another Will dated 13.08.1985 was set up in favour of defendants No.1 to 3, which, according to the plaintiff, was illegal, unnatural and result of undue influence.

3. Thereafter, the defendants contested the suit by pleading that the property, in question was self-acquired property of Niranjn Dass. The plaintiff had already been disinherited and a valid Will dated 13.08.1985 had been executed in favour of defendants No.1 to 3.

4. On the basis of pleadings, issues were framed and evidence was led by the parties. Thereafter, the learned trial Court partly decreed the suit vide judgment and decree dated 07.05.1991 by holding that only a portion of the suit property was ancestral, whereas the remaining property was self-acquired. However, the appeal preferred by the plaintiff against the said judgment was dismissed by the learned Appellate Court vide judgment dated 25.01.1993, affirming the findings of the learned trial Court.

5. Aggrieved against the concurrent findings, the present Regular Second Appeal has been filed.

6. Learned Senior counsel for the appellant has contended that the suit property comprises two parcels of land, one situated in village Dhariwal and the other in village Teri, and both the Courts below have erred in not appreciating the true nature of the property as joint Hindu



family property. It is submitted that Niranjn Dass had executed a registered Will dated 08.07.1985 in favour of his sons Ram Nath and Janak Raj in equal shares, bequeathing his entire estate, but within a short span, another Will dated 13.08.1985 was set up in favour of Janak Raj, his wife and sons, thereby excluding other natural heirs, which itself creates a grave suspicion. It is further contended that the property situated at village Dhariwal was admittedly ancestral and the income derived therefrom constituted a sufficient nucleus, which was utilized for purchase of the property at village Teri through sale deeds executed between the years 1940–41 and 1944, and therefore, the property at village Teri also became ancestral in nature. Learned Senior counsel for the appellant has further submitted that even the daughters of Niranjn Dass, in their written statement, supported the case of the plaintiff. It is argued that once the existence of adequate ancestral nucleus is established, a presumption arises that subsequent acquisitions are joint family property, and the burden shifts upon the defendants to prove that such acquisitions were made from independent sources of income, however, the Courts below have misdirected themselves by placing the burden upon the plaintiff and have misread the evidence on record. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Mudi Gowda Gowdappa Sankh vs. Ram Chandra Ravagowda Sankh, (1969) 1 SCC 386***, to argue that this legal principle has not been properly applied. It is further submitted that the Will dated 13.08.1985 is surrounded by suspicious circumstances, having been executed within a



short time and excluding other legal heirs, and moreover, the original Will was not produced on record by the defendants, and thus, it has not been duly proved in accordance with law. It is also pointed out that there is no intervening circumstance between 08.07.1985 and 13.08.1985 which compelled Niranjan Dass to revoke the earlier Will, and no reason has been given for disinheriting the natural heirs. However, despite these circumstances, the subsequent Will dated 13.08.1985 is not supported by any explanation and remains surrounded by suspicious circumstances. He has relied upon the judgment rendered by this Court in *Jagdish Singh (since deceased) through his LRs and others vs Jagjit Singh and another, 2022 (4) RCR (Civil) 399*. Moreover, the Will is not *per se* admissible. The original Will was never placed on record by the defendants/respondents. He has further relied upon the judgments of this Court in *Pardeep Singh and another vs Harbans Kaur and others, 2007 (11) RCR (Civil) 461* and *Bachittar Singh vs Rajinder Singh, 1983 PLJ 172* and submits that once the original Will was not produced, the findings recorded by both the learned Courts below are liable to be set-aside.

7. *Per contra*, learned Senior counsel for the respondents has supported the judgments and decrees passed by both the Courts below and contended that the findings recorded therein are based on proper appreciation of evidence and do not call for any interference. It is submitted that the plea of the appellant that the entire suit property is ancestral is wholly misconceived, as the plaintiff has failed to prove that



the property situated at village Teri was purchased out of the income of ancestral land at village Dhariwal. Learned Senior counsel for the respondents has further submitted that there were as many as nine members in the family, and it is highly improbable that out of the income of merely 31 kanals and 19 marlas of land, after meeting the needs of the entire family, a substantial extent of land measuring 71 kanals and 2 marlas could have been purchased within a short span during the years 1940–41, which clearly establishes that the said property was self-acquired by Niranjn Dass from his independent sources of income. It is further contended that the burden to prove the existence of sufficient ancestral nucleus was upon the plaintiff, which he has failed to discharge, and thus, no presumption as sought to be raised by the appellant arises in the present case. Learned Senior counsel for the respondents has further submitted that the Will dated 13.08.1985 (Ex.D2) has been duly proved in accordance with law by examining the marginal witnesses Satnam Singh, Advocate and the scribe Ravinder Pal as PW-5 and PW-3 respectively, and merely because it was executed within a short span of time after the earlier Will does not make it suspicious, as the earlier Will stood revoked. It is also argued that the strained relationship between Niranjn Dass and his son Ram Nath is duly proved on record, as the plaintiff/Ram Nath had filed a suit against Niranjn Dass in the Court of Sub Judge Ist Class, Ajnala and a copy of the plaint is placed on record as Ex.D1. Moreover, on 15.09.1982, Niranjn Dass had executed a Phargati Deed (Ex.D3) and disinherited



his son Ram Nath from his entire property. It is thus contended that no illegality or perversity can be attributed to the concurrent findings recorded by the learned Courts below and no substantial question of law arises for consideration in the present appeal.

8. I have heard learned counsel for the parties and perused the record with their able assistance.

9. Before proceeding further, it may be noticed that in view of the judgments passed in ***Pankajakshi (Dead) through Legal Representatives and others v. Chandrika and others (2016) 6 SCC 157***, ***Randhir Kaur v. Prithvi Pal Singh and others (2019) 17 SCC 71*** and ***Gurbachan Singh (dead) through LRs v. Gurcharan Singh (dead) through LRs and others***, the Hon'ble Supreme has categorically held that in second appeals arising from the States of Punjab and Haryana, the High Court exercises jurisdiction under Section 41 of the Punjab Courts Act, 1918, and framing of substantial question of law is not mandatory as required under Section 100 CPC. However, even otherwise, interference is warranted only when the findings recorded by the Courts below are shown to be illegal or perverse.

10. From the perusal of the record, it is evident that the main dispute between the parties is regarding the nature of the suit property, i.e., whether the entire property is ancestral or partly self-acquired by Niranjan Dass. Both the learned Courts below have, on appreciation of evidence, held that only a portion of the property is ancestral and the remaining property is self-acquired. It is to be noted that the plaintiff



has failed to prove that there was sufficient income from the ancestral land at village Dhariwal so as to form a nucleus for purchasing the land at village Teri. On the contrary, the evidence on record shows that the family consisted of about nine members and the ancestral land was only 31 kanals and 19 marlas. It is highly improbable that after meeting the day-to-day needs of the entire family any substantial savings could have been made to enable the purchase of a large chunk of 71 kanals 2 marlas in village Teri during the short period of 1940-44. Therefore, the findings recorded by the learned Courts below that the property at village Teri was self-acquired does not suffer from any illegality. The contention of the learned Senior counsel for the appellant regarding shifting of burden also does not merit acceptance. The initial burden to prove existence of sufficient ancestral nucleus was upon the plaintiff, which he has failed to discharge, and therefore, no presumption in his favour can be drawn.

11. As regards the Will dated 13.08.1985, the Courts below have recorded a concurrent finding that the same has been duly proved in accordance with law. The marginal witnesses Satnam Singh, Advocate and the scribe Ravinder Pal were examined as PW-5 and PW-3, who have proved the due execution and attestation of the Will. Merely because the Will was executed within a short span after the earlier Will does not make it suspicious. Moreover, the record of the Revenue Court was summoned and the original Will was duly proved.



12. The contention raised by learned Senior counsel for the appellant that there was no reason to exclude the plaintiff is also without merit. A perusal of the record clearly shows that the relationship between the plaintiff and Niranjana Dass was strained, as the plaintiff had filed a civil suit against his father (Ex.D1) and further, Niranjana Dass had already disinherited the plaintiff by executing a Phargati Deed dated 15.09.1982 (Ex.D3). Thus, there was sufficient reason for excluding the plaintiff from the Will.

13. Both the learned Courts below have properly appreciated the oral as well as documentary evidence and have returned well-reasoned findings. No perversity, misreading of evidence or violation of any settled principle of law has been pointed out.

14. Accordingly, no substantial question of law arises for consideration in the present appeal and the same is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

16.03.2026

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