



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

RSA-303-2000 (O&M)
Reserved on:- 26.05.2026
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KRISHAN RANI (SINCE DECEASED) THROUGH LRS AND
OTHERS

....Appellants

Vs

MANGAT RAM

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Gurmeet Singh Saini, Advocate
for the appellant Nos. 1(i) & 1 (ii).

Mr. Raj Kumar, Advocate
for appellant Nos. 2(through VC).

Mr. Divanshu Jain, Advocate
for the respondent.

VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal has been filed by the plaintiffs, Krishan Rani (since deceased) through LRs, Santosh Rani, and Rani in Civil Suit No. 279-A/1 dated 08.02.1990, challenging the common judgment and decree dated 19.08.1999 passed by the learned Additional District Judge, Ferozepur, whereby two civil appeals filed by the respondent, Mangat Ram, were disposed of.

2. Briefly stated, the dispute in the present case revolves around the inheritance of the estate left behind by Kesar Singh. It is the case of the parties that Kesar Singh was the owner in possession of the suit land, fully detailed and described in the headnote of the plaint. The appellants/plaintiffs, namely



Lajwanti @ Parisini (wife of Kesar Singh) and his daughters, claiming themselves to be the natural legal heirs of the deceased, instituted Civil Suit No. 279-A/1 dated 08.02.1990 against Mangat Ram, the sole son of Kesar Singh and Lajwanti, seeking a decree for possession to the extent of 5/6th share in the land owned by Kesar Singh on the basis of natural succession. It is an admitted fact that Kesar Singh died on 15.06.1989 at a hospital in Ferozepur. The plaintiffs alleged that the respondent/defendant, Mangat Ram, by taking undue advantage of the illiteracy of appellant Lajwanti, the incapacity of Darshana, and the fact that the other daughters were residing in their matrimonial homes away from the parental house, managed to get the mutation of inheritance sanctioned exclusively in his favour. The said mutation was allegedly based upon a forged and fabricated Will dated 19.10.1988 purportedly executed by Kesar Singh in favour of Mangat Ram.

2.1 The plaintiffs further alleged that the alleged Will was the result of fraud, misrepresentation, and undue influence, and that the recitals contained therein were false and fabricated. According to the plaintiffs, Kesar Singh was residing with his wife, Lajwanti, who was wholly dependent upon him, while his daughters regularly visited and maintained cordial and affectionate relations with their parents. It was further pleaded that Mangat Ram neither cared for nor rendered any service to his parents during their lifetime.

2.2 The suit was contested by the respondent/defendant, Mangat Ram, who raised preliminary objections regarding the maintainability of the suit and the absence of any cause of action. He asserted that Kesar Singh had executed a valid and duly registered Will dated 19.10.1988 in his favour out of



his own free will, while being in a sound disposing state of mind. The defendant further contended that the Will had been executed in consideration of the services and care rendered by him to Kesar Singh during his lifetime. On this basis, it was claimed that the mutation of inheritance sanctioned in favour of Mangat Ram was legal, valid, and in accordance with the Will executed by the deceased.

2.3 Subsequently, the plaintiff filed a replication controverting the assertions and objections raised in the written statement and reiterating the averments contained in the plaint. Upon a comprehensive consideration of the pleadings and rival contentions advanced by the parties, the learned trial Court proceeded to crystallize the matters in controversy and framed the following issues for determination:-

1. *Whether Kesar Singh executed a valid Will dated 19.10.1988 in favour of plaintiff ? OPP.*
2. *Whether the plaintiff is entitled to the declaration as prayed for?OPP.*
3. *Whether the plaintiff is entitled to the injunction prayed for? OPP.*
4. *Whether the suit is not maintainable in the present form? OPD.*
5. *Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD.*
6. *Whether Kesar Singh during his life time got the name of Lajwanti added in his account on 08.05.1991. OPD.*
7. *Relief.*

2.4 A second suit was instituted by Mangat Ram against Krishna Devi, bearing Civil Suit No. 611/1 dated 16.08.1998, wherein he sought a declaration regarding his entitlement to recover an amount of Rs. 85,160/- deposited by Kesar Singh in a savings bank account maintained with the State Bank of India, Mochi Branch, Ferozepur City. Along with the relief of



declaration, Mangat Ram also sought a permanent injunction restraining Lajwanti and her daughters from withdrawing the said amount from the bank account.

2.5 The said suit was contested by the defendants, who asserted that the bank account in question was a joint account maintained in the names of Kesar Singh and Lajwanti. It was pleaded that Lajwanti, being a joint account holder, was fully competent and legally entitled to operate and withdraw the amount from the account, both during the lifetime of Kesar Singh and after his demise. Accepting the said contention, the learned trial Court dismissed the suit filed by Mangat Ram. The appeal preferred against the said judgment was also dismissed, thereby affirming the findings recorded by the trial Court.

2.6 Insofar as the suit instituted by the present appellants/plaintiffs claiming inheritance to the estate of Kesar Singh is concerned, the learned trial Court decreed the suit in their favour. The Court came to the conclusion that the alleged Will propounded by Mangat Ram was surrounded by suspicious circumstances, which the propounder had failed to satisfactorily explain or dispel. The learned trial Court specifically observed that the exclusion of the wife and daughters of Kesar Singh from the natural line of succession constituted a grave suspicious circumstance, particularly in the absence of any cogent explanation for such exclusion. Consequently, the Will dated 19.10.1988 was disbelieved and the plaintiffs were held entitled to inherit the estate of Kesar Singh in accordance with the rules of natural succession.

2.7 Aggrieved against the common judgment and decree passed in both the suits, Mangat Ram preferred two separate civil appeals before the



learned First Appellate Court. The appeal arising out of the suit concerning the bank account was dismissed, thereby maintaining the finding that Lajwanti, as a joint account holder, was entitled to withdraw the amount lying therein. However, the other appeal filed by Mangat Ram, pertaining to the inheritance suit instituted by the present appellants/plaintiffs, was allowed. The learned First Appellate Court reversed the findings recorded by the learned Civil Judge and held that the Will dated 19.10.1988 was genuine, validly executed, and free from suspicious circumstances.

2.8 Being aggrieved by the reversal of the judgment and decree passed in Civil Suit No. 279-A/1 and the acceptance of the alleged Will in favour of Mangat Ram, the present Regular Second Appeal came to be instituted by the appellants/plaintiffs before this Court. Upon finding that the appeal involved substantial questions warranting judicial examination, the appeal was admitted for regular hearing vide order dated 31.08.2001. The respondents thereafter entered appearance through counsel and contested the proceedings.

3. For the purpose of facilitating a complete, effective, and judicious adjudication of the controversy involved, the entire record of the Courts below was requisitioned and has been made available on 'DMS' for consideration by this Court.

4. I have heard learned counsel for the parties at considerable length and have bestowed my thoughtful and anxious consideration upon their respective submissions while carefully examining the pleadings of the parties, the evidence adduced on record, and the concurrent findings returned by the learned Courts below.



5. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317*** and ***Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

6. Learned counsel for the appellants has vehemently contended that the findings recorded by the learned First Appellate Court are based merely on surmises and conjectures and are contrary to the evidence available on record. It is argued that the learned First Appellate Court failed to properly appreciate both the contents of the alleged Will as well as the oral and documentary evidence produced by the parties in their correct perspective. Instead of scrutinizing the evidence in accordance with settled principles governing proof of Wills, the Appellate Court allegedly resorted to its own assumptions and imagination in order to fill up the lacunae in the case of the propounder and to explain away the suspicious circumstances surrounding the Will, which was wholly impermissible in law.

6.1 Learned counsel further submits that the learned First Appellate Court exceeded its jurisdiction in recording a finding that the Will was free from suspicious circumstances despite the existence of several material inconsistencies and unexplained circumstances apparent on the face of the



record. It is contended that the complete exclusion of the wife and daughters of the testator from inheritance constitutes, by itself, a strong and significant suspicious circumstance, particularly when the natural heirs had cordial relations with the deceased and there existed no evidence of estrangement or hostility between them.

6.2 It is further argued that the alleged Will does not even contain any reference to the wife of the testator, namely Lajwanti, nor does it make any provision whatsoever for her maintenance, support, or residence after the death of Kesar Singh. According to learned counsel, such total exclusion of the widow, who was admittedly dependent upon the deceased and residing with him, is a highly unnatural circumstance striking at the very genuineness of the Will. However, the learned First Appellate Court, instead of examining this aspect with the caution required in testamentary matters, brushed aside the said suspicious circumstance on mere conjectures and assumptions unsupported by evidence.

6.3 Learned counsel has also contended that the settled legal position is that the burden squarely lies upon the propounder of the Will to remove and dispel all legitimate suspicious circumstances surrounding its execution. In the present case, Mangat Ram, being the sole beneficiary and propounder of the alleged Will, was under a heavy obligation to prove not only the due execution and attestation of the Will but also to satisfactorily explain the unnatural exclusion of the other legal heirs. It is submitted that the learned First Appellate Court committed a grave error in virtually stepping into the shoes of the propounder and attempting to supply explanations and reasons which were neither pleaded nor proved by the defendant himself. Such an



approach, according to the appellants, is contrary to the settled principles of law governing proof of testamentary documents and has resulted in serious miscarriage of justice.

7. Per contra, learned counsel appearing on behalf of the respondent has contended that Kesar Singh had validly and consciously executed the Will dated 19.10.1988 in favour of Mangat Ram while being in a sound disposing state of mind and without any coercion, undue influence, or misrepresentation. It is submitted that the due execution and attestation of the Will stand fully proved on record by the examination of the scribe as well as one of the attesting witnesses, namely Roor Singh, whose testimonies remained consistent and trustworthy. According to learned counsel, the statutory requirements for proving a Will, as contemplated under the Indian Succession Act and the Indian Evidence Act, have been duly satisfied by the respondent.

7.1 Learned counsel further submits that there are no suspicious circumstances whatsoever surrounding the execution of the Will. The mere exclusion of certain natural heirs, namely the wife and daughters of the testator, would not by itself render the Will suspicious or unnatural, particularly when the circumstances on record clearly indicate that Mangat Ram alone was serving and looking after Kesar Singh during his lifetime. It is argued that the evidence establishes that the respondent was residing with and taking care of the deceased, and therefore the decision of Kesar Singh to bequeath his estate in favour of the son who had rendered services to him was both reasonable and natural.



7.2 It is further contended that in the social and familial setup prevailing in this part of the country, it is a common and accepted practice for a father to desire that his son, especially the son who remains with and serves him in old age, should inherit the family property. Therefore, the disposition made by Kesar Singh in favour of Mangat Ram cannot be termed unnatural merely because the daughters or even the wife were not given a share under the Will. Learned counsel submits that the Will reflects the conscious intention and free volition of the testator and does not give rise to any legitimate suspicion requiring further explanation.

7.3 Learned counsel has thus argued that the learned First Appellate Court rightly appreciated the evidence on record and correctly reversed the findings of the learned trial Court by holding the Will to be genuine, validly executed, and free from suspicious circumstances. It is, therefore, prayed that the present Regular Second Appeal, being devoid of merit, deserves to be dismissed.

8. It is a well-settled proposition of law that the mere exclusion of natural heirs from inheritance does not, by itself, constitute a suspicious circumstance so as to invalidate a Will, provided that the Will otherwise stands duly proved in accordance with law. The testamentary disposition made by a testator cannot be discarded merely on the ground that certain heirs, who would otherwise succeed under the ordinary rules of succession, have been deprived of a share in the estate. What is required to be examined is whether the Will was executed voluntarily, in a sound disposing state of mind, and in compliance with the statutory requirements governing execution and attestation of testamentary documents.



9. The principles governing the proof, validity, and interpretation of Wills in matters relating to inheritance have recently been comprehensively reiterated by the Hon'ble Supreme Court in ***Parvathi Nairthi (Dead) and others Vs. Laxmi Nairthy (Dead) through LRs and others, 2026 INSC 521***. The Apex Court, while considering the scope of judicial scrutiny in testamentary matters, culled out the settled legal principles pertaining to the execution and validity of a Will in paragraph No. 29 of the judgment, which reads as under:

With regard to the principles pertaining to the validity and execution of a Will, reliance is placed on the judgments passed by 3 Judges Bench and 2 Judges Bench of this Court in [H. Venkatachala Iyengar v. B.N. Thimmajamma And Others](#)², [Bhagwan Kaur v. Kartar Kaur And Others](#)³, [Janki Narayan Bhoir v. Narayan Namdeo Kadam](#)⁴, [Yumnam Ongbi Tampha Ibema Devi v. Yumnam Joykumar Singh And Others](#)⁵, and [Shivakumar And Others v. Sharanabasappa And Others](#)⁶, 2023 SCC OnLine SC 1198 from which the following principles required for proving the validity and execution of a Will may be deduced: “10.1. The court has to consider two aspects : firstly, that the will is executed by the testator, and secondly, that it was the last will executed by him;

10.2. It is not required to be proved with mathematical accuracy, but the test of satisfaction of the prudent mind has to be applied.

10.3. A will is required to fulfil all the formalities required under [Section 63](#) of the Succession Act, that is to say:

(a) The testator shall sign or affix his mark to the will or it shall be signed by some other person in his presence and by his direction and the said signature or affixation shall show that it was intended to give effect to the writing as a will;

(b) It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;

(c) Each of the attesting witnesses must have seen the testator sign or affix his mark to the will or has seen some other



person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of such signatures;

(d) Each of the attesting witnesses shall sign the will in the presence of the testator, however, the presence of all witnesses at the same time is not required;

10.4. For the purpose of proving the execution of the will, at least one of the attesting witnesses, who is alive, subject to the process of court, and capable of giving evidence, shall be examined;

10.5. The attesting witness should speak not only about the testator's signatures but also that each of the witnesses had signed the will in the presence of the testator;

10.6. If one attesting witness can prove the execution of the will, the examination of other attesting witnesses can be dispensed with;

10.7. Where one attesting witness examined to prove the will fails to prove its due execution, then the other available attesting witness has to be called to supplement his evidence;

10.8. Whenever there exists any suspicion as to the execution of the will, it is the responsibility of the propounder to remove all legitimate suspicions before it can be accepted as the testator's last will. In such cases, the initial onus on the propounder becomes heavier.

10.9. The test of judicial conscience has been evolved for dealing with those cases where the execution of the will is surrounded by suspicious circumstances. It requires to consider factors such as awareness of the testator as to the content as well as the consequences, nature and effect of the dispositions in the will; sound, certain and disposing state of mind and memory of the testator at the time of execution; testator executed the will while acting on his own free will;

10.10. One who alleges fraud, fabrication, undue influence et cetera has to prove the same. However, even in the absence of such allegations, if there are circumstances giving rise to doubt, then it becomes the duty of the propounder to dispel such suspicious circumstances by giving a cogent and convincing explanation. 10.11. Suspicious circumstances must be "real, germane and valid" and not merely "the fantasy of



the doubting mind [Shivakumar v. Sharanabasappa, (2021) 11 SCC 277] ". Whether a particular feature would qualify as "suspicious" would depend on the facts and circumstances of each case. Any circumstance raising suspicion legitimate in nature would qualify as a suspicious circumstance, for example, a shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the will under which he receives a substantial benefit, etc."

10. In the present case, the Will propounded by the respondent/defendant is a registered Will. The due execution and attestation thereof stand duly proved on record through the testimonies of the scribe as well as one of the attesting witnesses, namely Roop Singh, who is admittedly the headman of the village. Both the Courts below have concurrently held that the execution and registration of the Will have been satisfactorily established in accordance with law.

11. The principal controversy, therefore, does not pertain to the formal proof of the Will, but rather to the question as to whether the said Will was executed by Kesar Singh out of his own free volition and whether it truly reflected his conscious intention regarding the disposition of his estate after his death.

12. The appellants/plaintiffs sought to assail the genuineness of the Will by pointing out various circumstances, such as the non-examination of the second attesting witness, minor discrepancies in the testimonies of the scribe and the attesting witness, and certain inconsistencies regarding the relationship of Mangat Ram with Kesar Singh and Lajwanti. However, such discrepancies are of a minor and inconsequential nature and do not go to the



root of the matter. The learned First Appellate Court has rightly ignored these insignificant contradictions while appreciating the overall evidence on record.

13. The only material circumstance which truly requires adjudication is whether the Will propounded by the respondent/defendant is free from suspicious circumstances, particularly in light of the fact that the Will contains no reference whatsoever to Smt. Lajwanti, the wife of late Kesar Singh. It is not disputed that Lajwanti was residing with Kesar Singh during his lifetime and that their relations were cordial. In such circumstances, the omission of any reference to the wife in the testamentary document undoubtedly constitutes a circumstance requiring closer judicial scrutiny.

14. The Hon'ble Supreme Court in *Parvathi Nairthi (Dead) and others Vs. Laxmi Nairthy (Dead) through LRs and others, 2026 INSC 521*, while dealing with the issue of exclusion of natural heirs, observed that exclusion of natural heirs by itself cannot be sufficient to invalidate a Will, particularly where the Will itself discloses reasons indicating that the testator had adequately provided for such heirs during his lifetime. The Apex Court observed that "exclusion of natural heirs cannot be sufficient to vitiate the Will in question, particularly when the Will clearly specifies that the testator has not done any injustice to his wife, children and other relatives and he has given enough to his wife and children who are residing at Bombay."

15. However, in *Ram Piari Vs. Bhagwant and others, (1990) 3 SCC 364*, the Hon'ble Supreme Court held that prudence demands that where natural heirs are excluded from inheritance, there ought to exist some explanation or indication in the Will itself justifying such exclusion. The Court observed that absence of any such reason, though not rendering the Will



invalid in every case, certainly casts a cloud of suspicion over the testamentary disposition, as it does not provide any insight into the mind of the testator so as to satisfy the Court that the disposition was the result of a conscious and voluntary act. Thus, while exclusion of natural heirs is not by itself fatal to the validity of a Will, the surrounding circumstances, the conduct of the parties, and the absence or presence of any explanation for such exclusion remain relevant considerations for determining whether the Will truly represents the free and voluntary intention of the testator.

16. In *Parvathi Nairthi case (supra)*, the testator had specifically referred to his wife and other natural heirs in the Will and had assigned clear reasons for their exclusion from inheritance by stating that he had already provided sufficiently for them during his lifetime. Thus, the testamentary disposition in the said case disclosed the intention of the testator and furnished a reasonable explanation for depriving the natural heirs of succession, thereby dispelling any suspicion surrounding the Will.

17. However, the facts of the present case stand on an entirely different footing. In the Will propounded by the respondent/defendant, there is a specific reference to the four daughters of Kesar Singh, all of whom were excluded from inheritance. The Will records that three of the daughters, being married, had already been adequately provided for by incurring expenses on their marriages and by giving them sufficient articles and benefits during the lifetime of the testator. In respect of the fourth daughter, namely Darshana, who was stated to be suffering from disability and was unmarried, the Will casts an obligation upon Mangat Ram to look after and take care of her after the death of Kesar Singh.



18. Significantly, however, the Will is completely silent regarding the existence of the wife of the testator, namely Smt. Lajwanti. There is not even a passing reference to her in the entire testamentary document. No reason whatsoever has been assigned for excluding her from inheritance, nor has any provision been made for her maintenance, residence, or sustenance despite the admitted position that she was residing with Kesar Singh during his lifetime and that their relations were cordial. The complete omission of the wife from consideration, in the absence of any explanation, assumes considerable significance and constitutes a material circumstance requiring careful scrutiny by the Court.

19. The learned First Appellate Court, however, in paragraph No. 24 of its judgment, attempted to supply reasons and explanations for the disinheritance of Lajwanti and for the omission of any reference to her in the Will. In doing so, the learned First Appellate Court appears to have ventured beyond the recitals contained in the Will and the evidence available on record. The Court sought to explain the circumstances which, according to it, might have persuaded the testator not to make any provision for his wife. Such an approach, however, prima facie amounts to filling up gaps in the case of the propounder, even though no such explanation either emerged from the Will itself or was established through independent evidence led by the respondent/defendant. Paragraph No. 24 of the judgment passed by the learned First Appellate Court is reproduced as under:

24. Undoubtedly reference in will Ex P.1 not all made to Lajwanti widow of testator. No provision for maintenance of lajwanti is made anywhere in Will Ex. P1 and as such it is contended by Sh. VP Arora advocate will is not a genuine will. This submission of Shri Arora Advocate has no force



because as discussed above not only Mangat Rail and Kesar Singh resided together, but even Lajwanti remained in same house during life time of Kesar Singh. Quarrel between Mangat Ram and Lajwanti took place after death of Kesar Singh is a fact admitted by DW1 This that at the time of execution of Will Ex. P1, relations between Mangat Ram and Lajwanti means quite cordial and if that be the position, then in view of circumstances prevailing at the time of execution of Will Ex. P1, it was but natural for the testator to believe by his necessary implications that his only son will serve his mother. On account of this confidence might have been, reposed by testator in Mangat Ram while executing the will and that is why provision made for unmarried daughter by expression confidence in Mangat Ram to the effect that latter will look after and serve unmarried daughter. In our society status of mother in the eyes of her son is considered much higher as compared to the status of sister. Realizing this position it was expected that testator would not have thought it fit of making reference to his wife any where in the Will. As testator was having faith in his only son to the effect that this son will look after unmarried daughter, so in natural course it was expected that testator was having so much faith in propounder at the time of execution of Will Ex. P/1 that propounder in all probability will look after his mother. In view of this reference in will to wife of testator may not have been made. Circumstances discussed above in itself speak that testator may have omitted to make reference to his in will ex. p.1 by believing that only son will service his mother and perform his Dharma. When there was no quarrel between son and mother during life time of testator as admitted by DW1, then certainly testator would have believed the intentions of propounder to serve mother and that is why in the Will no reference to wife not all made.

20. A perusal of the reasoning recorded by the learned First Appellate Court reveals that the findings have largely been based upon surmises and conjectures rather than on the recitals contained in the Will or on cogent evidence available on record. The learned First Appellate Court proceeded on



the assumption that Kesar Singh reposed complete confidence in Mangat Ram and was satisfied that he would look after his mother, namely Lajwanti, after the death of the testator. The Appellate Court further observed that in the prevailing social milieu, the status of a mother in the eyes of a son is considered higher than that of a sister and, therefore, the testator might not have considered it necessary to make any specific reference to his wife in the Will.

21. The aforesaid reasoning clearly demonstrates that the learned First Appellate Court substituted its own assumptions and perceptions in place of the actual intention of the testator. A Will is a solemn testamentary document intended to reflect the conscious intention and free volition of the testator regarding the disposition of his estate after his death. The recitals contained therein are expected to provide an indication of the mind of the testator and the reasons which persuaded him to distribute his property in a particular manner. In the present case, however, the Will is conspicuously silent with regard to the wife of the testator. There is not even a passing reference to her existence, much less any explanation for her exclusion from inheritance or any provision for her maintenance and sustenance.

22. The learned trial Court had rightly treated the omission of any reference to the wife as a significant suspicious circumstance surrounding the execution of the Will. The burden, therefore, squarely rested upon the propounder of the Will, namely Mangat Ram, to dispel the said suspicious circumstance by leading cogent and convincing evidence. However, no such evidence was brought on record by the respondent/defendant. Instead, the learned First Appellate Court itself undertook the exercise of supplying



explanations and assumptions which neither formed part of the Will nor emerged from the evidence led by the parties. Such an approach is impermissible in law.

23. It has also come on record that the relations between Mangat Ram and his mother, Lajwanti, were not cordial. The evidence further reveals that when Kesar Singh was admitted in the hospital shortly before his death, Mangat Ram was not present by his bedside. Rather, it was his daughters and son-in-law who got him admitted in the hospital and attended upon him. It has further been established that after the death of Kesar Singh, it was only his wife and daughters who brought the dead body from the hospital to the house, whereas Mangat Ram was not even present there and was at Jalalabad, despite the fact that Jalalabad is situated at a distance of merely 30-40 kilometers from Ferozepur, where Kesar Singh was struggling for his life.

24. These circumstances assume significance while evaluating the genuineness of the Will and the correctness of the recital that Mangat Ram alone had been serving and looking after the deceased during his lifetime. In view of the aforesaid discussion, this Court is of the considered opinion that the learned First Appellate Court erred in law in recording findings based upon conjectures and assumptions in order to explain away the suspicious circumstance arising from the complete omission of the wife of the testator from the Will. The said suspicious circumstance having not been satisfactorily dispelled by the propounder of the Will, the findings recorded by the learned First Appellate Court cannot be sustained.

25. Consequently, the present appeal filed by the appellants deserves to be allowed. The judgment and decree passed by the learned First Appellate



Court in civil suit is hereby set aside, and the judgment and decree passed by the learned trial Court is restored and affirmed.

26. Pending applications, if any, shall stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

29.05.2026

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