



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

(208)

RSA-2671-1998(O&M) with XOBJ-2-C-2000
Reserved on : 09.03.2026
Pronounced on : 08.05.2026
Uploaded on : 08.05.2026

Ujagar Singh

.....Appellant

Versus

Sahib Singh and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. J.S. Cooner, Advocate,
for the appellant.

Mr. R.S. Longia, Advocate,
for respondent No.1/cross-objector.

Mr. Nagar Singh, Advocate, for
Mr. V.B. Sethi, Advocate,
for respondent No.3.

AMARINDER SINGH GREWAL, J.

1. The present Regular Second Appeal has been preferred by the defendant-appellant against the judgment and decree dated 29.04.1998 passed by the learned Lower Appellate Court, whereby the suit of the plaintiff-respondent was partly decreed to the extent of declaring him nominee in respect of Savings Account No. 952455 dated 04.02.1993 maintained with Post Office Bharog, and entitling him to withdraw the amount lying therein along with accrued interest. Challenge has also been



laid to the judgment and decree dated 11.03.1996 passed by the learned Trial Court, whereby the suit of the respondent-plaintiff was decreed declaring him entitled to all movable and immovable properties, including the amount in question, left behind by deceased Jai Ram alias Jee Ram son of Ram Partap, resident of Antal, Tehsil Rajpura, District Patiala. The plaintiff-respondent has also filed cross-objections assailing the findings recorded by the learned Lower Appellate Court on Additional Issue No. 1 pertaining to the Will, whereby the findings returned by the learned Trial Court in favour of the plaintiff-respondent were reversed.

1.1 For the sake of convenience, the parties shall be referred to in terms of their status before the trial court.

2. Briefly stated, the plaintiff instituted a suit for declaration to the effect that he was the nominee of deceased Jai Ram @ Jee Ram son of Ram Partap in respect of the savings account in question and was entitled to withdraw the amount lying therein. The defendant contested the suit on the basis of a registered Will dated 31.01.1972 allegedly executed by the deceased in his favour. It was further pleaded that mutation had already been sanctioned on 28.05.1985 on the basis of the said Will and that a succession certificate had also been granted in favour of the defendant. During the pendency of the suit, the plaintiff set up a Will dated 24.06.1984 in his favour and sought amendment of the plaint, which was duly allowed and attained finality as the same was never challenged by the defendant. Subsequently, the respondent-plaintiff instituted a suit for declaration of possession on 09.10.1986.



3. Upon notice, the defendant No.3 appeared and filed his written statement contesting the suit, raising various preliminary objections. The plaintiff filed a replication denying the contents of the written statement and reiterating the averments made in the plaint.

4. On the basis of the pleadings of the parties, the following issues were framed:

1. Whether the plaintiff was nominated as a nominee by the deceased? If so, whether plaintiff is entitled to amount in question?
OPP
2. Whether the plaintiff is related to the deceased JaiRam?OPP
3. Whether the plaintiff has no locus standi to file the suit?OPD
4. Whether the suit is not maintainable in present form?OPD
5. Relief.

5. The parties led evidence in support of their respective cases. After hearing learned counsel for the parties and the learned Trial Court, upon appreciation of the entire evidence on record, held that the plaintiff had failed to prove valid nomination in accordance with law. However, it returned a categorical finding that the Will dated 24.06.1984 in favour of the plaintiff stood duly proved through cogent and reliable evidence, including examination of attesting witnesses, and was free from any suspicious circumstances. The Will set up by the defendant was rejected as not proved, as no attesting witness was examined. Accordingly, the suit was



decreed in favour of the plaintiff, declaring him entitled to all movable and immovable properties of the deceased.

5.2 Aggrieved against the said judgment, the defendant preferred an appeal. The learned First Appellate Court, while re-appreciating the evidence, held that the suit for declaration simpliciter without consequential relief of possession was not maintainable in respect of immovable property and that the Trial Court had erred in granting relief beyond the pleadings. It further held that the Will dated 31.01.1972 in favour of the defendant stood proved. However, the learned First Appellate Court reversed the finding of the Trial Court on the issue of nomination and held that the plaintiff was the nominee in respect of the savings account, thereby granting him limited relief to withdraw the amount along with interest and modified the judgment and decree dated 11.03.1996, passed by learned trial Court.

6. Still feeling dissatisfied, the appellant-respondent has knocked the door of this Court by way of filing a regular second appeal praying that the same be accepted, the impugned judgments and decrees passed by the Courts below be set aside and their suit be dismissed.

7. Learned counsel for the appellant contended that the judgments and decrees passed by the learned Trial Court as well as the learned First Appellate Court are contrary to law and the facts available on record, being based on a vague and erroneous appreciation of evidence, as the alleged nomination was not duly authenticated by the depositor. It has further been contended that the Will dated 31.01.1972 was duly executed in favour of the appellant-defendant and stood duly proved on record. It was



further submitted that the said Will had been given effect to by way of mutation sanctioned on 28.05.1983, therefore, the plaintiff could not have been granted any relief. Additionally, the application for grant of succession certificate was accepted on 29.01.1987, after due notice to the general public, exhibited as Ex.D-5, and the succession certificate was issued as Ex.D-2. It was contended that the learned Courts below committed a grave error in ignoring these documents merely on the ground that the respondent was not a party to the said proceedings.

8. *Per contra*, learned counsel for the respondent–cross objector assailed the findings of the learned First Appellate Court on the issue of the Will, contending that the same are based on conjectures and surmises. It was submitted that the learned Trial Court had rightly held the Will dated 24.06.1984, executed in favour of the plaintiff, to have been duly proved in accordance with law. He further argued that the appellant, by his own act and conduct, had implicitly admitted the validity of the said Will in favour of the plaintiff–respondent–cross objector, inasmuch as he set up a counter Will in his own favour but failed to prove the same by examining even a single attesting witness thereto. Accordingly, a prayer was made for setting aside the judgment and decree dated 29.04.1998 passed by the learned First Appellate Court and for affirming the judgment and decree dated 11.03.1996 passed by the learned Civil Judge (Senior Division), Ambala.

9. I have heard learned counsel for the parties at length and have carefully perused the judgments and decrees passed by both the Courts below along with the evidence available on record.



10. The present Regular Second Appeal and the cross-objections arise out of a dispute concerning entitlement over the estate left behind by deceased Jai Ram alias Jee Ram, involving competing claims founded upon nomination, rival Wills and a succession certificate. The appellant seeks reversal of the limited relief granted in favour of the plaintiff–respondent by the learned First Appellate Court, whereas the respondent, through cross-objections, seeks restoration of the findings recorded by the learned Trial Court with regard to the Will dated 24.06.1984 and consequential rights over the entire estate.

11. It is an admitted fact that deceased Jee Ram owned movable and immovable properties in his ancestral village Khojkipur. It is also undisputed that the deceased had executed a Will in favour of the appellant–defendant, pursuant where to a succession certificate was obtained by the appellant–defendant on an application moved before the learned Court, vide order dated 29.01.1987. It is further an admitted fact that, in the account opened by deceased Jee Ram with the Post Office, the name of the respondent–plaintiff was recorded in the account opening form as nominee.

12. The first limb of challenge raised by the appellant pertains to the finding of nomination in favour of the plaintiff–respondent. The learned First Appellate Court has returned a categorical finding, upon appraisal of the documentary evidence on record, that in the account opening form pertaining to Savings Account No. 952455 maintained at Post Office Bharog, the respondent–plaintiff was recorded as nominee. This finding has



been arrived at after appreciation of the original records and cannot be termed either perverse or contrary to evidence. Much argument was advanced by learned counsel for the appellant that mere nomination did not confer title upon the respondent. There can be no quarrel with the proposition that a nominee does not, by reason of nomination alone, become owner of the estate of the deceased. However, the learned First Appellate Court has not treated nomination as conferring succession rights over the entire estate; rather, it has rightly confined the plaintiff's entitlement only to withdrawal of the amount lying in the savings account together with accrued interest.

13. Further, a well-reasoned finding has been recorded by the learned First Appellate Court that the succession certificate was issued by the learned Senior Sub Judge, Ambala; however, the plaintiff was not impleaded as a party in those proceedings. It has further emerged that, at the time of issuance of the succession certificate, the complete and admitted facts were not brought to the notice of the learned Senior Sub Judge, Ambala by the appellant-defendant. It can, therefore, be presumed that the succession certificate came to be issued without proper consideration of the relevant material and documents. Consequently, the mere issuance of a succession certificate in favour of the defendant would not, by itself, confer upon him entitlement to the movable and immovable properties left behind by deceased Jee Ram. A succession certificate does not determine title finally *inter se* rival claimants. It merely authorizes collection of debts and securities and does not adjudicate ownership of the estate conclusively. The



learned First Appellate Court has rightly observed that the plaintiff was not even impleaded as a party in the proceedings resulting in issuance of the succession certificate. Further, the complete material facts, including the nomination in favour of the plaintiff and competing claims, were admittedly not before the Court granting the certificate. In such circumstances, the appellant cannot derive absolute title to the estate merely on the strength of the succession certificate.

14. Furthermore, with regard to the relationship of the appellant–defendant with the deceased, it stands clearly established from the record that the appellant–defendant is the son of the real brother of the deceased. This fact has not been disputed by the respondent–plaintiff and also finds due corroboration in the judgment passed by the learned First Appellate Court, wherein the pedigree table has been duly considered, clearly establishing the said relationship. However, no cogent evidence or documentary material has been placed on record by the respondent–plaintiff to substantiate his alleged relationship with the deceased. In these circumstances, and on the basis of the evidence available on record, this Court can safely conclude that the appellant–defendant was closely related to the deceased, Jee Ram.

15. The principal controversy, however, arises out of the cross-objections filed by the respondent–plaintiff concerning the alleged Will dated 24.06.1984, as against the Will dated 31.01.1972 propounded by the appellant–defendant. A bare perusal of the testimony of DW1 Gopal Dass reveals that the deceased, Jee Ram, had executed a Will in favour of the



appellant–defendant. It has also come on record that one of the attesting witnesses, namely Raghunandan, had expired, and thereafter the appellant–defendant obtained the succession certificate. The appellant–defendant duly examined the attesting witness and proved the due execution and attestation of the Will in accordance with law. No suspicious circumstances have been shown to exist surrounding the execution of the said Will. Accordingly, the testimony of DW1 sufficiently establishes the validity of the Will dated 31.01.1972, which also stands duly reflected in the revenue record.

16. In contrast, the Will dated 24.06.1984, set up by the respondent–plaintiff, does not inspire confidence. At the time of institution of the suit before the learned trial Court, the respondent–plaintiff neither produced the said Will nor sought any relief on the basis thereof. The suit was initially confined to claiming entitlement as a nominee in respect of the amount lying in the post office account of the deceased. It was only during the pendency of the proceedings, and subsequent to the production of the Will dated 31.01.1972 by the appellant–defendant, that the respondent–plaintiff introduced the alleged Will dated 24.06.1984.

17. The explanation furnished by the respondent–plaintiff that the Will had been misplaced is wholly unconvincing. A document of such significance would ordinarily be preserved with due care, and its alleged discovery after several months from a trunk further casts serious doubt on its authenticity. Moreover, the respondent–plaintiff did not disclose the existence of any such Will prior to the appearance of the appellant–defendant, nor was the said Will ever registered. Even in the cross-



objections, no cogent documentary or reliable oral evidence has been adduced to establish that the Will dated 24.06.1984 was genuinely executed by the deceased.

18. It is also noteworthy that the respondent–plaintiff never challenged the Will dated 31.01.1972 in the original suit. On the contrary, the said Will appears to be natural, duly proved, and supported by the surrounding circumstances. No suspicious circumstance has been pointed out by the respondent–plaintiff so as to discredit its validity.

19. In view of the above, this Court finds that the Will dated 31.01.1972 has been validly proved and inspires confidence, whereas the alleged Will dated 24.06.1984 set up by the respondent–plaintiff is not worthy of reliance.

17. For the reasons recorded hereinabove, the present appeal stands disposed of with the following directions:

(i) The respondent–plaintiff is declared to be the nominee of the deceased, Jai Ram alias Jee Ram, in respect of Savings Account No. 952455 dated 04.02.1983 maintained at Post Office Bharog, and shall be entitled to withdraw the entire amount lying therein.

(ii) The appellant–defendant shall be entitled to all other movable and immovable properties of the deceased.

18. Consequently, the cross-objections filed by the respondent–cross-objector stand dismissed. The judgments and decrees dated 29.04.1998 passed by the learned Additional District Judge, Ambala, and



dated 11.03.1996 passed by the learned Civil Judge (Senior Division), Ambala, are hereby set aside. Decree sheet be drawn accordingly.

19. In view of the judgments passed by the *Hon'ble Supreme Court in Pankajakshi (Dead) through Legal Representatives and others vs. 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*, questions of law are not required to be framed in second appeal before the Punjab and Haryana High Court whose jurisdiction is circumscribed by provisions of Section 41 of the Punjab Courts Act, 1918.

20. The appeal stands disposed of accordingly.

21. Pending application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

08.05.2026
Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No