

RSA-4822-2011 (O&M)

RSA-4823-2011 (O&M)

2026-PHHC-045768



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

Decided on : 23.03.2026

RSA-4822-2011 (O&M)

Raj Kumar

....Appellant

Versus

Tek Chand & anr.

....Respondents

RSA-4823-2011 (O&M)

Raj Kumar

....Appellant

Versus

Tek Chand & anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Suvir Kumar, Advocate for the appellant.

None for respondent No.1.

Mr. Deepak Bhardwaj, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 These two appeals arise out of two different suits relating to the rights of the parties in the estate left by their father, Budh Ram.

2 Appeal bearing RSA No.4822 of 2011 has been filed by Raj Kumar-defendant No.1 son of Budh Ram, in Suit No.419 of 16.09.2000, against judgments and decrees of the Courts below, whereby the Ld. Trial Court decreed the suit against defendant No.1 restraining him from interfering in the peaceful possession of plaintiffs over the suit property and to raise any

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construction over any part of the suit property and the appeal filed by defendant No.1 was dismissed by the Ld. Appellate Court.

3 Appeal bearing RSA No.4823 of 2011 has been filed by Raj Kumar against judgments and decrees of the Courts below, whereby the suit for declaration that plaintiff is entitled to 1/3rd share in the plot as well as the constructed house was dismissed by both the Courts below.

4 For the effective disposal of appeals, the facts are being culled out from the suit earlier in time i.e. Suit No.419 of 16.09.2000, out of which RSA No.4822 of 2011 has arisen.

5 Appeal is at the behest of defendant No.1, Raj Kumar.

6 Plaintiff filed suit seeking decree of declaration to the effect that the plaintiffs along with the defendants are owners in the suit property as detailed out in the head note of the plaint. Plaintiffs further sought decree of permanent injunction restraining defendant No.1 from interfering in the peaceful possession of the plaintiffs over part of the suit property.

7 Defendants in order to deny the right of the plaintiffs in the estate left by their father-Budh Ram, propounded WILL and claimed that plaintiff No.1 stands excluded from the succession by Budh Ram by executing WILL dated 13.07.1995. Budh Ram died on 29.04.1996. He thus has succeeded to the estate of Budh Ram to the exclusion of plaintiff No.1.

8 Both the Courts below have decreed the suit and discarded the WILL propounded by defendant No.1 for more than one reason.

9 It is matter of record that the original WILL was never produced by the defendant-appellant. At no point of time an application was moved

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seeking permission to prove the WILL by way of secondary evidence. In order to prove his case, defendant No.1 examined Karam Singh, DW3 i.e. one of the attesting witnesses of the WILL in question. Karam Singh has been held to be an unreliable witness. His testimony suffers from contradictions. His testimony was found to be untrustworthy. He could not specify whether Budh Ram thumb marked the WILL in the presence of attesting witnesses. He claimed that the WILL was scribed on a stamp paper whereas WILL was scribed on a plain paper. That apart, even defendant-appellant while testifying before the Court, admitted that his father was an illiterate person and that he had taken the testator to the office of Sub-Registrar for execution and registration of the WILL. All these factors lead to the conclusion that the WILL propounded by the defendant-appellant was not trustworthy.

10 Counsel for the appellant is not in a position to show any evidence that was ignored or was misread by the Courts below that has led to perversity in the pure finding of facts recorded by the Courts below.

11 In view thereof, this Court finds no reason to interfere in the present appeals and the same are ordered to be dismissed.

12 Photocopy of this order be placed on the connected file.

13 Pending miscellaneous application, if any, also stands disposed off.

23.03.2026
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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