

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
118

RSA-3232-2023 (O&M)
Date of decision: 20.01.2026

Karan Singh

Vs.

...Appellant(s)

Thandu Ram and others

...Respondent(s)

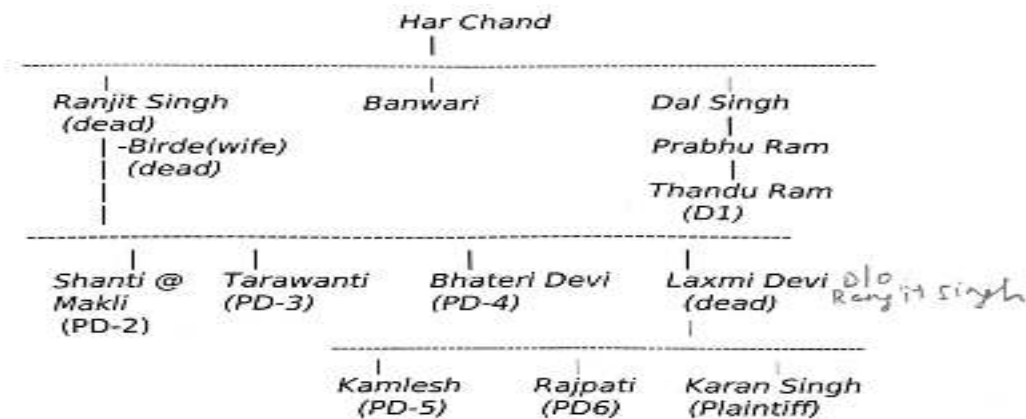
CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Satbir Singh Gill, Advocate
for the appellant.

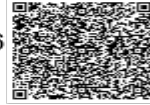
NIDHI GUPTA, J.

Plaintiff is in Second Appeal against the judgment of reversal dated 25.05.2023 passed by the learned First Appellate Court; whereby suit filed by the appellant for declaration has been dismissed; thereby reversing the judgment of the learned Trial Court.

2. The facts as pleaded in the plaint are that the parties to the suit are closely related to each other. The pedigree table showing their relationship with each other is as under:-



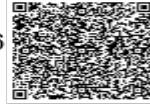
3. It is contended that the suit property was ancestral property. The plaintiff and the performa defendants (referred above as “PD”) are the LRs of Sh. Ranjit Singh, who had died on 21.09.2011. It was pleaded



that after the death of Ranjit Singh, Patwari of the village had disclosed that the defendant No.1 Thandu Ram had furnished a Will of Ranjit Singh for entering and sanctioning mutation of inheritance of Ranjit Singh in favour of defendant No.1 instead of the plaintiff and proforma defendants. Accordingly, on 05.12.2011, plaintiff had moved an application before the Tehsildar requesting that mutation be sanctioned and entered in favour of the plaintiff and proforma defendants. It was pleaded that plaintiff had come to know about the Will dated 07.03.1996 only on 07.12.2011 when he obtained a certified copy of the said Will. It was alleged that defendant No.1 in collusion with the Scribe; attesting witnesses; and officials of Sub Registrar had hatched a conspiracy and got prepared a false Will. It was contended that the suit property being ancestral in nature, defendant No.1 had no right to get the mutation of the same sanctioned in his name. Accordingly, present suit was filed on 31.01.2012 seeking declaration and permanent injunction.

4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Senior Division), Hisar had decreed the suit of the plaintiff vide judgment and decree dated 05.10.2016 as follows:-

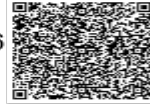
“31. In view of my findings recorded on above said issues, the suit of the plaintiff succeeds to the effect that plaintiff and proforma defendants No. 5 and 6 are owners in possession of 1/4th share of the suit property and proforma defendants No.2 to 4 in equal shares have become owners in possession of 1/4th share of land ad-measuring 106 Kanals 14 Marlas being 1/3 share of the land measuring 320 Kanals and 3 Marlas, comprised in Khewat No.6, Khatuni No.14 and 15,



Kittas 53, situated within the revenue estate of village Chuli Kalan, Tehsil Adampur and District Hisar, vide jamabandi for the year 2007-08, left by Sh.Ranjit Singh son of Shri Har Chand, resident of village Chuli Kalan, Tehsil Adampur and District Hisar upon his death, which took place on 21.09.2011 and they are entitled to the possession of the aforesaid property, as per law. The Will dated 07.03.1996, registered in the office of Sub Registrar, Adampur(Hisar) at Sr.No.50 dated 07.03.1996 allegedly executed by Shri Ranjit Singh(deceased) is also null and void and not binding on the interest of the plaintiff and proforma defendants, in view of the fact that it is sufficiently proved to be executed under suspicious circumstances. It is further directed that the pendent-lit transfer of interest of suit property by defendant no.1 in favour of his wife and son is also not binding on the interest of plaintiff. The defendant is also directed not to create any encumbrance or to alienate the aforesaid land, in any manner; and not to dispossess the plaintiff and proforma defendants from the joint possession of the aforesaid land as per their shares. Decree-sheet be drawn accordingly. After doing the needful, file be consigned to record room."

5. However, the Civil Appeal filed by defendant No.1 was allowed; and suit of the plaintiff was dismissed by the learned Additional District Judge, Hisar vide judgment and decree dated 25.05.2023. Hence, the present second appeal by the plaintiff.

6. It is *inter alia* submitted by learned counsel for the appellant that the learned Courts below were in patent error in reversing the well reasoned and comprehensive judgment of the learned Trial Court. It is submitted that in doing so, learned First Appellate Court has ignored the fact that the appellant had proved on record that the suit land was ancestral property. This fact has not been denied by defendant No.1. Thus, it is deemed to be admitted that suit land is ancestral. It is proven fact on



record that the suit land had been inherited by Ranjit Singh through his father Har Chand. Therefore, suit land is the ancestral property of Ranjit Singh. As such, Ranjit Singh had no right to dispose of the same vide the impugned Will; as the plaintiff and the performa defendants are equal coparceners and have equal rights in the suit land.

7. It is further submitted that the Will dated 07.03.1996 allegedly executed by Ranjit Singh in favour of defendant No.1 was a collusive Will set up by defendant No.1 merely to defeat the rights of the appellant. Moreover, the said Will has not been proven before the learned Courts below as none of the attesting witnesses had been examined by defendant No.1. Signature of Ranjit Singh and attesting witnesses have not been proved on the said Will. Learned First Appellate Court has ignored the fact that although Will is stated to have been executed in 1996, however, witnesses have deposed that they have gone to the office of Registrar 6-7 years ago. Moreover, it is not mentioned in the Will that the suit land had been inherited by Ranjit Singh from his father and, therefore, the same is ancestral property of his four daughters. Even otherwise, at the time of execution of Will, wife of Ranjit Singh, namely, Birde was alive. Yet no property was shown to be given to her for maintenance. Learned counsel submits that in non-suiting the appellant, the learned First Appellate Court had ignored all the above said facts and evidence on record.

8. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgment and decree dated 25.05.2023



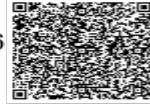
passed by learned Additional District Judge be set aside; and the judgment and decree dated 05.10.2016 passed by learned Additional Civil Judge (Senior Division), Hisar be restored.

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

10. Learned Trial Court had decreed the suit of the plaintiff/appellant on the ground that Release Deed by defendant No.1 in favour of his wife and son was executed during the pendency of the suit; and therefore, the same would be treated as lis-pendens and would not be binding upon the rights of the plaintiff.

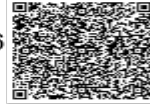
11. Learned Trial Court had further held that defendant No.1 had not succeeded in proving the genuineness of the Will dated 07.03.1996 *in-as-much* as defendant No.1 had not successfully proved signatures of attesting witnesses over the Will; that the circumstances under which the Will was executed are highly suspicious; that although the Will was executed in the year 1996, witnesses thereto had deposed that they had gone to the office of Sub Registrar only 6-7 years ago. Learned Trial Court had therefore, concluded that Will in question was a result of fraud and misrepresentation; and had accordingly set aside the impugned Will and decreed the suit of the plaintiff.

12. However, upon appraisal of the case file in detail it is my clear view that the above findings of the learned Trial Court are erroneous. In decreeing the suit of the plaintiff, the learned Trial Court has failed to take



into consideration certain facts and evidence, which are material to the case. The whole case of the plaintiff rests upon the contention that the suit land is ancestral. The right of the plaintiff to the suit land is based on the assertion that the suit land is ancestral in nature; and, therefore, Ranjit Singh could not have disposed of the suit land by way of impugned Will. However, learned Trial Court has failed to take into consideration the fact that the plaintiff failed to bring on record any evidence whatsoever to prove that the suit land was ancestral in nature. On the contrary, from the averments made in the plaint itself, it was clear that Ranjit Singh had inherited only 1/3rd share in the suit property vide mutation of the year 1973. From the Pedigree table of the plaintiff himself, it was clear that the suit land had been inherited by Ranjit Singh from his father. Plaintiff had failed to show the four male lineal descendants to prove the ancestral nature of the suit property. Thus, it was clear that Ranjit Singh was competent to execute the Will.

13. As regards the genuineness of the impugned Will, it is established from the evidence on record that the learned Trial Court was in patent error in discarding the Will in question. Firstly, admittedly, Will No. 50 dated 07.03.1996 Ex.P1 is a registered document. Therefore, presumption of truth and genuineness is attached to the same. Even otherwise, the said Will stood proven from the evidence of DW2 Dalip Singh son of Shishpal, attesting witness to the Will who had specifically deposed that Ranjit Singh had executed the said Will on 07.03.1996 and had appended his thumb impression upon the Will in his presence.



Defendant had also examined DW5 Dalip Singh son of another attesting witness, namely, Bhoop Singh, who had died on 16.08.2006. DW5 had identified signature of his father on the impugned Will. Furthermore, Shanti Devi and Tarawanti, daughters of Ranjit Singh and aunts of the appellant, had appeared as DW6 and DW7 respectively and had fully supported the case of the defendant. Shanti Devi vide her Affidavit Ex. DW6/A had deposed that defendant No.1 was an adopted son of her father; that defendant No.1 used to live with Ranjit Singh and looked after him. DW6 and DW7 further deposed that Ranjit Singh had executed the impugned Will with the consent of DW6 and DW7. Thus, in view of the above facts, the learned First Appellate Court had correctly opined that as the daughters of Ranjit Singh, who had collateral interest in the suit property, had deposed in favour of the defendant against their own interest, no fraud was made out in the execution of the Will. Even otherwise, plaintiff had been unable to prove any collusion or fraud in the execution of the said Will.

14. The fact that defendant No.1 used to reside with Ranjit Singh and his family, was also from the Ration Card issued on 17.08.1999, original of which was produced before the learned Courts below as Ex.D2. In the said Ration Card, defendant No.1 is recorded as son of Ranjit Singh.

15. Lastly but not the least, cultivating possession of defendant No.1 over the suit property was proved from the khasra girdawari.

16. Learned counsel for the appellant/plaintiff is unable to dispute or controvert the above said findings of the learned First Appellate Court.
17. In view of the above, no ground is made out to interfere in the impugned judgment and decree dated 25.05.2023 passed by learned Additional District Judge, Hisar The present Regular Second Appeal is hereby **dismissed**.
18. Pending applications, if any, stand disposed of.

20.01.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE