

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**RSA-1198-2023 (O&M)
Date of decision: 27.04.2026

Vidya Devi

...Appellant

Versus

Raghunath Dass and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTAPresent: Mr. Namit Khurana, Advocate and
Mr. Nitin Goswami, Advocate
for the appellant.

DEEPAK GUPTA, J. (ORAL)

The present Regular Second Appeal has been preferred by the defendant–appellant against the judgment and decree dated 15.11.2019 passed by the learned Additional District Judge, Yamuna Nagar at Jagadhri, whereby the appeal filed by the appellant against the judgment and decree dated 23.04.2013 passed by the learned trial Court was dismissed, though with a limited modification, and the Will dated 02.07.2005 set up by the appellant was declared illegal, null and void, with a further declaration that the plaintiffs, being the legal heirs of deceased Jeet Ram, are entitled to succeed to his estate.

2. The factual background, as emerges from the record, is that one Jeet Ram was the owner in possession of the suit property measuring 6 kanals 9 marlas situated in village Tihano, Tehsil Chhachhrauli, District Yamuna Nagar. The plaintiffs, who claim themselves to be the brother and sisters of the said Jeet Ram, instituted a suit for declaration to the effect that they are owners in possession to the extent of 1/3rd share in the estate left by him, and further sought a declaration that the Will dated 02.07.2005 propounded by the defendant is a forged and fabricated



document and not binding upon their rights. It was their pleaded case that Jeet Ram died unmarried and issue-less, and during his illness, the defendant had only been engaged to look after him. After his death on 31.07.2005, the defendant set up a false claim on the basis of the alleged Will.

3. The defendant contested the suit by asserting that she was the legally wedded wife of Jeet Ram and had lived with him as such till his death. It was further her case that Jeet Ram had executed a valid Will in her favour and, even otherwise, she being his widow, was the sole legal heir entitled to inherit his estate.

4. On the basis of the pleadings, issues were framed and parties led evidence. Upon appreciation thereof, the learned trial Court returned a finding that the defendant had failed to prove that she was the legally wedded wife of Jeet Ram and had also failed to prove the due execution of the Will in accordance with law. Consequently, the Will was declared null and void and the plaintiffs were held entitled to succeed to the estate of Jeet Ram. The appeal preferred by the defendant met the same fate before the learned First Appellate Court, which, after re-appraisal of the entire evidence including additional evidence, affirmed the findings of the trial Court on both counts.

5. Assailing the said judgments, learned counsel for the appellant has contended that both the Courts below have erred in law in discarding the evidence led by the defendant. It has been argued that the defendant had duly proved her marriage with Jeet Ram through oral testimony as well as documentary evidence such as ration card, electoral roll and widow pension record. It is further submitted that the Will stood duly proved by examining the attesting witnesses and by producing the original Will by way



of additional evidence. According to the learned counsel, the Courts below have adopted a hyper-technical approach and have failed to appreciate that the Will was executed by Jeet Ram in a sound disposing state of mind and out of his free volition. It is thus contended that the findings recorded are perverse and give rise to substantial questions of law.

6. Having heard learned counsel for the appellant and upon perusal of the record, this Court finds that the present appeal does not raise any substantial question of law.

7. At the outset, it is to be noted that the jurisdiction of this Court under Section 100 CPC is confined to substantial questions of law and does not extend to re-appreciation of evidence or interference with concurrent findings of fact, unless such findings are shown to be perverse or based on misreading of evidence.

8. Insofar as the question of marriage is concerned, both the Courts below have concurrently held that the defendant failed to establish that she was the legally wedded wife of Jeet Ram. A perusal of the record reveals that the written statement filed by the defendant does not disclose the date, place or manner of the alleged marriage. The version regarding marriage was introduced during evidence and is marked by material inconsistencies. While the defendant claimed that the marriage was performed according to Hindu rites and ceremonies, her witnesses deposed that it was a Karewa marriage. Even otherwise, the defendant admitted that no customary ceremonies were performed and that the alleged marriage was reduced to a mere meeting. The defendant further admitted her earlier marriage but failed to prove its lawful dissolution. The documentary evidence relied upon by her, such as ration card and electoral roll, has rightly been held insufficient to prove a valid marriage in the



absence of proof of essential ceremonies. The finding recorded by the Courts below in this regard is thus a pure finding of fact based on proper appreciation of evidence and does not call for interference.

9. Coming to the validity of the Will dated 02.07.2005, it is well settled that the propounder of a Will is required to prove its due execution and to dispel all suspicious circumstances surrounding it, as laid down by the Hon'ble Supreme Court in catena of judgments.

10. In the present case, both the Courts below have recorded a categorical finding that the Will is surrounded by several suspicious circumstances. It has come on record that although the testator used to sign documents, the Will bears only his thumb impression without any satisfactory explanation. The Will is scribed on plain paper and is not registered. One of the attesting witnesses has categorically denied the execution of the Will, while another admitted having earlier made a statement that no Will was executed in his presence. There are material contradictions in the testimonies of the witnesses regarding the execution of the Will. The presence and active involvement of the beneficiary at the time of execution further casts doubt on its genuineness. Moreover, the Will is alleged to have been executed shortly before the death of the testator. The defendant herself has taken inconsistent stands regarding her knowledge of the Will. All these circumstances, when taken cumulatively, create serious doubt about the authenticity of the Will.

11. The Courts below have, therefore, rightly concluded that the defendant has failed to discharge the heavy burden cast upon her to prove the Will in accordance with law and to dispel the suspicious circumstances.

12. The findings recorded by both the Courts below are based on appreciation of oral and documentary evidence and are neither perverse



nor contrary to settled principles of law. Learned counsel for the appellant has not been able to point out any illegality or perversity in the said findings so as to warrant interference in second appeal.

13. In view of the aforesaid discussion, this Court is of the considered opinion that no substantial question of law arises for consideration in the present appeal. The appeal, being devoid of merit, is accordingly dismissed.

14. Pending applications, if any, also stand disposed of. No order as to costs.

27.04.2026
Yogesh

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No