



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

**207**

**RSA-3904-1997 (O&M)**

**Date of Decision : 25.05.2026**

Satpal (Since Deceased) through his LRs

... Appellants

Versus

Sardari Lal and Others

... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Argued by :-

Mr. Baljinder Singh, Advocate  
for the appellants.

Mr. M.L. Saini, Advocate  
for the respondent No.1.

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**VIRINDER AGGARWAL, J.** (Oral)

1. The appellants/plaintiffs, being aggrieved by the decree and judgment dated 20.09.1997 passed by the learned Additional District Judge, Rupnagar, whereby the well-reasoned decree and judgment dated 12.11.1992 rendered by the learned Additional Senior Sub-Judge, Anandpur Sahib came to be reversed, have respectfully invoked the appellate jurisdiction of this Court through the present Regular Second Appeal (for short, "RSA").

1.1. The appellants seek restoration of the decree lawfully granted by the learned Trial Court and consequential redress against the substantial miscarriage of justice occasioned by the impugned judgment. It is



respectfully submitted that the impugned judgment and decree suffer from manifest perversity, patent errors of law, and a fundamentally erroneous appreciation of the pleadings and evidentiary material available on record, resulting in grave prejudice to the rights of the appellants. The appellants, therefore, pray that the impugned judgment and decree be set aside and the lawful and reasoned judgment and decree of the learned Trial Court be restored.

2. The factual background giving rise to, and culminating in, the present appeal may be narrated as under:—

*As per the averments contained in the plaint, the plaintiff Satpal and defendant No.1 Sardari Lal are real brothers, while their third brother, Jagdish Lal, originally arrayed as a defendant, expired during the pendency of the proceedings and his legal representatives were consequently brought on record. It was pleaded that the suit property originally belonged to their father, Gurdas Ram, who expired on 31.05.1982 and, owing to advanced age and prolonged illness, had become physically and mentally infirm.*

*It was further averred that Gurdas Ram had been running a business under the name and style of Doaba Dhaba but, due to his deteriorating health, the business came to be managed by defendants No.1 and 2. The plaintiff alleged that defendant No.1, taking undue advantage of the vulnerable condition of Gurdas Ram, procured an alleged Will dated 13.03.1981 in his favour and, on the basis thereof, obtained*



*sanction of mutation vide order dated 30.01.1989 passed by the Assistant Collector Ist Grade, Anandpur Sahib.*

*The plaintiff questioned the legality and genuineness of the alleged Will as well as the consequential mutation, contending that the same had never been validly executed by Gurdas Ram and that the suit property, being ancestral in nature, devolved upon all three brothers in equal shares under the provisions of the Hindu Succession Act. Claiming joint possession and entitlement in the property, the plaintiff instituted the present suit seeking partition and consequential reliefs.*

3. Upon service of summons, the defendants entered appearance and filed their respective written statements. Defendant No.2, Jagdish Lal, substantially admitted the averments contained in the plaint; however, during the pendency of the proceedings, he expired and his legal representatives were duly brought on record in accordance with law.

3.1. The suit was, however, seriously contested by defendant No.1 Sardari Lal, who asserted that late Gurdas Ram had executed a valid registered Will dated 13.03.1981 in his favour, by virtue whereof he became the exclusive owner in possession of the suit property. It was further pleaded that Gurdas Ram had been residing with him and that the business of *Doaba Dhaba* was jointly managed by them, while the plaintiff and Jagdish Lal had no concern therewith. The allegations regarding physical or mental infirmity of Gurdas Ram were specifically denied, and it was asserted that the plaintiff and Jagdish Lal had remained indifferent towards him during his lifetime.



3.2. It was further contended that the plaintiff had strained relations with his father and had been residing separately for several years. The allegations regarding manipulation of the Will and mutation were denied, while the mutation sanctioned by the Assistant Collector Ist Grade, Anandpur Sahib was asserted to have been passed after due enquiry and in accordance with law. Objections with regard to valuation, court fees, and jurisdiction were also raised, and a prayer for dismissal of the suit was made.

4. Upon a careful, comprehensive, and exhaustive examination of the pleadings, documentary material, and rival submissions advanced by the parties, the learned Trial Court deemed it appropriate to crystallize the controversies arising for adjudication and, with a view to ensuring a precise, effective, and legally coherent determination of the disputes involved, framed the following issues for consideration:-

1. *Whether the plaintiff is a joint owner of the suit property and in possession thereof? If so, what is his share?OPP*
2. *Whether the suit is properly valued for the purpose of court fee and jurisdiction?OPP*
3. *Whether deceased Gurdas Ram executed a valid will in favour of defendant No. 1 on 13.3.81? If so to what effect?OPD-1.*
4. *Whether the site plan of the plaintiff is wrong? If so it's effect?OPD-1.*
5. *Relief.*

5. Both parties were afforded adequate opportunity to adduce oral and documentary evidence in support of their respective claims. Upon



conclusion of the trial and appreciation of the material on record, the learned Trial Court decreed the suit by holding the plaintiff entitled to ownership to the extent of 1/3rd share in the suit property and consequential possession through partition. The alleged Will dated 13.03.1981 executed in favour of defendant No.1 Sardari Lal and the mutation dated 30.01.1989 sanctioned pursuant thereto were declared illegal, invalid, and without legal effect. A preliminary decree for partition was accordingly passed, and the defendants were restrained from alienating or altering the nature of the suit property, with parties left to bear their own costs.

6. Aggrieved by the aforesaid decree and judgment, the respondents/appellants preferred an appeal before the learned First Appellate Court, which, upon re-appreciation of the evidence on record, allowed the appeal with costs and reversed the findings recorded by the learned Trial Court on issue Nos. 1 and 3. Consequently, the judgment and decree of the learned Trial Court were set aside and the suit instituted by the plaintiff came to be dismissed with costs.

6.1. Dissatisfied with and assailing the findings and conclusions recorded by the learned First Appellate Court, the appellants/plaintiffs instituted the present appeal before this Court. Upon admission of the appeal, notices were issued and respondent No.1 entered appearance through learned counsel and contested the matter. The records of the Courts below are available on DMS and have been perused for the purposes of comprehensive examination and adjudication.

7. I have heard learned counsel for the parties at considerable length and have bestowed anxious and thoughtful consideration upon their



respective submissions while keeping in view the pleadings of the parties, the oral and documentary evidence brought on record, and the findings returned by the Courts below.

8. 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.

9. Learned counsel for the appellant vehemently contended that the learned First Appellate Court erred in law and fact by setting aside the well-reasoned and cogent findings of the learned Trial Court based on mere surmises and conjectures. It was submitted that the First Appellate Court failed to appreciate the Trial Court's critical findings regarding the non-production of both the original Will dated March 13, 1981, and the anterior Will dated January 27, 1978. Furthermore, Respondent No. 1 inexplicably suppressed the existence of the propounded Will dated March 13, 1981, for an inordinate period of seven years, rendering the admission and consideration of secondary evidence highly improper and legally unsustainable.



9.1. It was further urged that the learned Trial Court had rightly concluded that the Will propounded by Respondent/Defendant No. 1 is heavily shrouded in suspicious circumstances. The appellant seeks to place reliance on the specific, un-rebutted badges of suspicion meticulously identified by the Trial Court, advertng to the following:-

- i. Absence of Comprehension:-** The propounder signally failed to establish that the testator was fully aware of the nature, contents, and legal consequences of the instrument he was purportedly executing on March 13, 1981.
- ii. Active Participation:-** The propounder took an active and interested part in the preparation and execution of the Will, creating a strong presumption of undue influence.
- iii. Lack of Testamentary Capacity:-** The propounder failed to discharge the onus of proving that the testator possessed a sound and disposing mind at the material time, particularly given the admitted fact that the testator was an octogenarian suffering from debilitating chronic asthma.
- iv. Unnatural Disposition:-** The instrument offers no plausible or justifiable reasons for completely disinheriting the testator's other two biological sons, thereby diverting the natural stream of succession.



- v. **Fabricated Recitals:-** The recitals in the alleged Will concerning the appellant are demonstrably false, fabricated, baseless, and devoid of factual foundation.
- vi. **Contradictory Exclusions:-** The grounds assigned within the instrument for disinheriting another son, Jagdish Lal, are mutually destructive and contradictory.
- vii. **Unreliable Attestation:-** The testimony of Munshi Ram manifestly a professional witness is inherently untrustworthy and lacks credibility.

9.2. Consequently, counsel submitted that the First Appellate Court committed a patent illegality by summarily discarding these deeply entrenched suspicious circumstances and erroneously holding the execution of the Will to be duly proved.

10. *Contra*, the learned counsel for the contesting respondent submitted that the findings recorded by the learned First Appellate Court suffer from no legal infirmity, perversity, or jurisdictional error. It was urged that the First Appellate Court, being the final court of fact, thoroughly re-appreciated the evidence on record to arrive at the sound conclusion that the Will is pristine and entirely free from any suspicious circumstances. Counsel emphasized that the testator had articulated valid, cogent, and discernible reasons for excluding his other two sons from his bounty.

10.1. It was further contended that the First Appellate Court correctly appreciated the ocular evidence, rightly concluding that the testimonies of Munshi Ram (the attesting witness) and the scribe of the



Will could not be brushed aside on hyper-technical grounds. Munshi Ram, an ex-Municipal Councilor, cannot be branded a "professional witness" or have his credibility impeached merely because he had attested multiple instruments over the preceding ten years.

11. It is a matter of common practice and administrative convenience that Sub-Registrars routinely request attestation from individuals of recognized public or official status to ensure the proper identification of testators. While Munshi Ram may not have shared close personal intimacy with the deceased testator, he hailed from the same locality and steadfastly proved the factum of due execution and attestation in his deposition. Therefore, his testimony cannot be discredited solely on account of his civic status or his routine participation in local instrument registrations.

**11.1. Testamentary and Mental Capacity of the Testator:-**

As regards the mental capacity of the testator, Gurdas Ram, there is an absolute dearth of material on record to suggest that he lacked a sound and disposing mind at the material time. The attesting witness has categorically deposed that the testator possessed full testamentary capacity during the factum of execution. Furthermore, since the Will is a duly registered instrument, it commands a statutory presumption of validity under Section 114, Illustration (e) of the Indian Evidence Act, 1872, which mandates that official acts are presumed to have been regularly performed. Consequently, it must be presumed that the contents of the Will were read over and explained to the testator and the witnesses at the time of registration, and that the testator appended his signature after fully



appreciating its import. It is trite law that the mental capacity of a testator cannot be impugned or doubted merely on account of advanced age or physical infirmities incident to old age.

**11.2. Belated Production and Secondary Evidence of the Will:-**

Furthermore, the delayed production of the Will is of no legal consequence given its status as a registered document. It stands duly proved on the record that the original instruments were produced before the competent revenue authorities (Sub-Registrar) at the time of sanctioning the mutation of names. Under such circumstances, the non-production of the original Will during the trial does not constitute a suspicious circumstance, and the secondary evidence of the Will has been legally established through the official records of the Sub-Registrar.

**11.3. Rationality of Disinheritance and Intention of the Testator:-**

Furthermore, the disinheritance of the appellant, Satpal, is rationally explained by the fact that he was initially residing abroad and had subsequently decoupled his household, living separate and apart from his father. The mere fact that Satpal remitted two bank drafts to Sardari Lal in the year 1986 does not warrant the conclusion that Gurdas Ram's testamentary intentions were positively influenced by Satpal's conduct. A Will is the ultimate reflection of the testator's mind. Since the testator resided exclusively with Defendant No. 1, his disposition naturally favored the caregiver.

Initially, another son, Jagdish Lal, also resided with them, prompting the execution of an earlier Will in 1978, which devised the



property to Jagdish Lal and Sardari Lal in equal shares. However, Jagdish Lal subsequently became wayward, misbehaved with the testator, and ultimately went missing from the paternal home. This constrained Gurdas Ram to revoke the anterior Will and execute a fresh testament exclusively in favor of Sardari Lal, explicitly recording the reasons for such disinheritance.

The learned Trial Court misconstrued the recitals by holding that because Jagdish Lal was untraceable for approximately one year, there could be no question of his refusing to tend to his father during that period. In point of fact, the Will contains no recital stating that Jagdish Lal refused to serve the testator *during* the period of his disappearance. The most natural and harmonious interpretation of the text indicates a two-fold sequence: first, Jagdish Lal refused to look after the testator, and subsequently, he deserted the household and went missing for the final year, with evidence on record suggesting he adopted immoral life of hippies and irresponsible lifestyle.

11.4. **Exclusion of Jagdish Lal's Branch:-**

Regarding the exclusion of Jagdish Lal's family from the line of succession, the record indicates that during his lifetime, Jagdish Lal's persistent misconduct forced Gurdas Ram to consciously disinherit him. This was executed by revoking the 1978 testament and settling the entire estate upon Sardari Lal alone, who remained the sole dutiful son.

11.5. **Non-Production of the Revoked 1978 Will:-**

As regards the non-production of the anterior Will dated January 27, 1978, the learned First Appellate Court rightly concluded that



its absence does not constitute a badge of suspicion. The respondent-defendant successfully produced and proved the registered Deed of Cancellation (Ex. D6), which legally extinguished the 1978 Will. Consequently, the non-production of the underlying revoked document is entirely devoid of legal significance.

Upon a holistic consideration of the facts and circumstances, this Court finds no perversity, illegality, or jurisdictional infirmity in the findings recorded by the learned First Appellate Court. The impugned judgment is sound, and the present appeal, being utterly devoid of merit, is hereby **dismissed**.

12. Consequent upon the final adjudication of the principal appellate matter, all pending miscellaneous applications, if any, arising out of or connected with these proceedings, shall stand disposed of by necessary implication. In light of the conclusions reached herein, no separate or independent orders are required in respect of such applications, as their determination has rendered them wholly infructuous and academic.

**25.05.2026**  
Gaurav Sorot

**( VIRINDER AGGARWAL )**  
**JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No