



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

**RSA-1052-1990 (O&M)
Reserved on: 09.01.2025
Pronounced on: 24.04.2025**

Smt. Gurcharan Kaur and others

...Appellants

Vs.

**Smt. Mohinder Kaur (Deceased)
through LRs and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

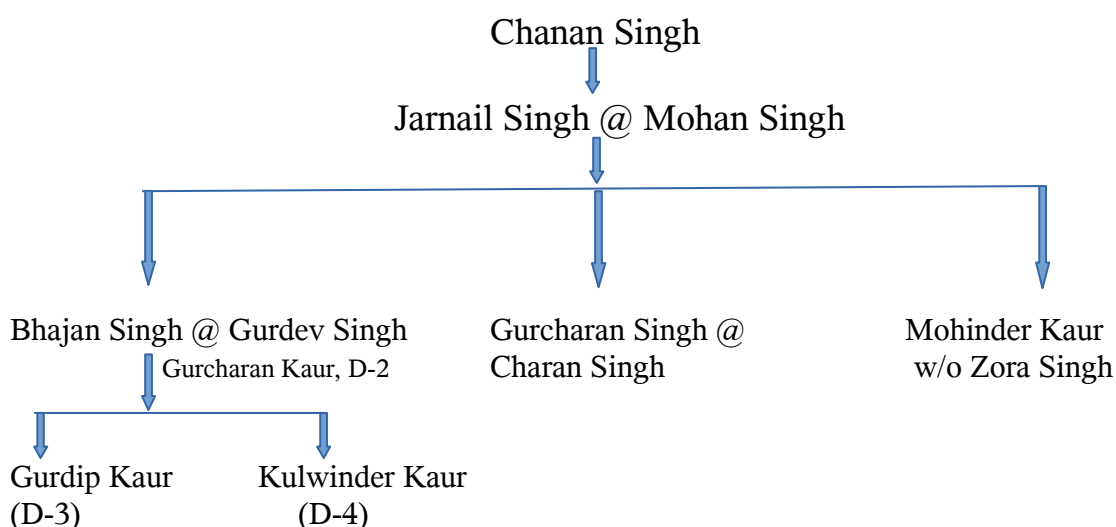
Present: Ms. Priya Sahoo, Advocate for
Ms. Nisha Rani, Advocate
for the appellant(s).

Mr. Yashpal Thakur, Advocate
for the respondents.

ANIL KSHETARPAL, J.

I Brief Facts:-

1. Defendants No. 2 to 4 assail the correctness of concurrent findings of fact arrived at by the Courts below while decreeing the plaintiff's suit for declaration that she is the owner of 1/3rd share in the land measuring 187 kanals 14 marlas left behind by late Sh. Jarnail Singh @ Mohan Singh, who died on 14.09.1960. For better comprehension, the family tree of the parties is illustrated as under:-



2. The dispute is with regard to the inheritance of property left behind by Sh. Jarnail Singh @ Mohan Singh, who died on 14.09.1960 while leaving behind three Class I heirs, namely, Sh. Bhajan Singh @ Gurdev Singh and Sh. Gurcharan Singh @ Charan Singh (two sons) and Smt. Mohinder Kaur (daughter). The plaintiff claims the property on the basis of natural succession, whereas, defendants No. 2 to 4 claim that late Sh. Jarnail Singh @ Mohan Singh executed a Will on 09.08.1959, bequeathing the property in favour of his two sons, namely, Sh. Gurcharan Singh @ Charan Singh and Sh. Bhajan Singh @ Gurdev Singh. Both the Courts have concurrently found that the Will is surrounded by suspicious circumstances.

II Arguments addressed:-

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book alongwith the requisitioned record.



4. Learned counsel representing the appellants while referring to the statement of attesting witness DW1-Sh. Kishan Singh submits that the Will has been proved and both the Courts have erred in decreeing the suit. While referring to the statement of DW2-Sh. Malkiat Singh, she submits that non-examination of defendants No. 2 to 4 as witnesses would not be sufficient to draw adverse inference.

5. *Per contra*, learned counsel representing the respondents has supported the judgments of the Courts below.

III. Analysis and Discussion:-

6. There are two beneficiaries of the alleged Will, namely, Sh. Gurcharan Singh @ Charan Singh and Sh. Bhajan Singh @ Gurdev Singh. Sh. Gurcharan Singh @ Charan Singh appeared as PW-2 on behalf of the plaintiff. He did not support the Will. He stated that the Will was never executed by his father. PW/4-Sh. Darbara Singh, the Scribe, stated that the Will was forged at the behest of Sh. Malkiat Singh. Despite the lengthy cross-examination, his credibility could not be impeached by the defendant's counsel. Defendants No. 2 to 4 did not step into the witness box to depose with respect to the suspicious circumstances. They appeared through Sh. Malkiat Singh, holding power of attorney, against whom the allegations have been made. Moreover, the Will was allegedly executed on 09.05.1959, however, it was never produced before anyone for a period of 24 years after the death of executant.



7. This Court has carefully read the statement of DW1-Sh.Kishan Singh, who is alleged to have attested the Will, however, no effort has been made by the defendants to explain the suspicious circumstances surrounding the Will. Defendants No. 2 to 4 had propounded the Will. They were required to not only prove the Will but also required to explain presence of suspicious circumstances.

8. Additionally, there is a concurrent findings of fact arrived at by the Courts below.

IV Decision:-

9. Keeping in view the aforesaid facts, no ground to interfere is made out.

10. The appeal is dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)
JUDGE**

24.04.2025
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No