



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1292-2021 (O&M)

Date of Decision :07.07.2025

BHOLA SINGH

. . . . APPELLANT

Vs.

ANGREJ SINGH AND OTHERS

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Preetwinder Singh Dhaliwal, Advocate, for the appellant.

DEEPAK GUPTA, J.

One of the defendants has approached this Court against concurrent findings of the Courts below.

2. Suit for declaration and possession along with relief of permanent injunction regarding property in dispute filed by plaintiffs- Angrej Singh and another (*contesting respondents herein*) was decreed by the trial court on 08.02.2019; whereas, the appeal filed by defendant – *appellant herein* was dismissed by the First Appellate Court on 04.12.2019, affirming the findings of the trial Court.

3. Perusal of the paper-book would reveal that dispute pertains to the suit property, which was earlier owned by Mal Singh, who died on 14.04.2015 unmarried and issueless, at village Rahiewal. He was maternal uncle of plaintiff No.2 (Balwinder Singh); and paternal uncle of contesting defendant (Bhola Singh). Plaintiffs claimed succession to the suit property based upon an unregistered Will dated 30.03.2015 and alleged that defendants, despite having no connection with the suit property or inheritance of Mal Singh, had taken over the possession thereof and got sanctioned a mutation No.7270 in their favour by taking undue advantage of the absence of the plaintiffs and were further threatening them to alienate the suit property. The stand of defendant No.1 was that Will dated 30.03.2015 relied upon by the plaintiff was a forged document and

that in fact Mal Singh had executed an un-registered Will dated 28.12.2014 in his (Bhola Singh's) favour in lieu of the services rendered by him.

4. Though both the Courts below, based upon the evidence on record, found that execution of both the Wills i.e., one relied by the plaintiffs and other relied by the defendants were duly proved, but held that since the Will dated 30.03.2015 in favour of the plaintiffs was later in time, so that WILL will prevail and as such, decreed the suit.

5. Assailing the concurrent findings, it is contended by learned counsel for the appellant that in the subsequent Will dated 30.03.2015, there is no reference of the earlier Will dated 28.12.2014. Besides Mal Singh died only 15 days after the date of the Will dated 30.03.2015 and that these suspicious circumstances have not been taken into consideration.

6. This Court has considered submissions of learned counsel for the appellant and has carefully gone through the paper-book. It is found that the Will dated 30.03.2015 is duly proved by the testimony of both of the attesting witnesses namely Gurcharan Singh and Surjit Singh apart from the deed-writer-Pardeep Kumar. As per the consistent statements of all these witnesses, the Will dated 30.03.2015 (Ex.P1) was scribed by Pradeep at the instance of Mal Singh and after admitting the contents thereof, he had put his thumb-impression thereon and thereafter the two witnesses had affixed their impression thereon. Credibility of these witnesses could not be impeached.

7. Apart from the above, it has been found by the Courts below, based upon the evidence on record that Mal Singh (deceased) was residing with his sister i.e. mother of one of the plaintiffs for the last about 60-70 years. He was even having his voter-card at village Rahiewal i.e. the place of the plaintiffs. Even the death of the Mal Singh took place at the house of the plaintiffs. Bhog and last ceremonies were also performed at village Rahiewal.

8. In the light of the aforesaid facts and circumstances, the mere fact that there is no mention of the earlier Will dated 28.12.2014 in the subsequent Will dated 30.03.2015 cannot in itself be considered to be a suspicious circumstance.

9. As far as the death of Mal Singh just 15 days after the execution of the Will dated 30.03.2015 (Ex.P1) is concerned, there is no evidence to show that Mal Singh was not in sound disposing state of mind at the time of execution of Will. Rather as per the testimony of scribe and the attesting witness, the Will was executed at the instance of Mal Singh. There is no evidence that Mal Singh was ill or was not in a position to execute the Will and as such, merely because of his death 15 days after the execution of the Will, it cannot be considered to be a suspicious circumstance.

10. No other point has been raised.

11. On account of the entire discussion as above, this Court does not find any ground to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below, which are found to be based on proper appreciation of evidence available on record.

12. Holding the present appeal to be devoid of any merit, the same is hereby dismissed.

07.07.2025

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned	: Yes
Whether reportable	: No