

2025:PHHC:035568



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

**RSA-6111-2018 (O&M)  
Reserved on : 06.03.2025  
Pronounced on : 17.03.2025**

VISHAL AND ANOTHER ...Appellants

VERSUS

TEJBIR AND OTHERS ...Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Neeraj Sharma, Advocate for the appellants.

**ALKA SARIN, J.**

1. The present appeal has been preferred by the plaintiff-appellants challenging the judgment and decree dated 05.05.2015 passed by the Trial Court and the judgment and decree dated 20.04.2018 passed by the First Appellate Court whereby their suit for declaration and permanent injunction has been dismissed.

2. Brief facts relevant to the present *lis* are that one Hukam Chand had three sons (Tejbir, Suresh and Sat Narain) and three daughters (Sukhdevi, Santosh and Ishwanti). One son, Tejbir (defendant-respondent No.1), was married to plaintiff-appellant No.2 and plaintiff-appellant No.1 is their son. According to the plaintiff-appellants the suit property is ancestral property in the hands of the defendant-respondents as the same was inherited by Hukam Chand from his father and as such the plaintiff-appellant No.1 being the only son of the defendant-respondent No.1 has become coparcener and is having pre-existing right in the suit property. It was averred that the

defendant-respondents are bent upon to sell the ancestral property and have been making negotiations for the said purpose, without any kind of legal necessity. As per the plaintiff-appellants the alleged Will dated 11.08.2011 executed by Hukam Chand in favour of his grand children Ashwani Kumar, Ravi Dutt sons of Sat Narain, Arpan alias Happy son of Suresh Kumar is illegal, bogus, invalid, ineffective, result of fraud and is not binding upon the rights of the plaintiff-appellants and is liable to be set aside. It was alleged that the defendant-respondents, on the basis of the Will dated 11.08.2011, are bent upon to dispossess the plaintiff-appellants from the suit property and alienate the same. Hence, the suit. The suit was contested by the legal heirs of Sat Narain son of Hukam Chand [defendant Nos.2(ii)(a), (b), (c), (d)] and Ishwanti daughter of Hukam Chand [defendant No.2(v)] while the other defendants were proceeded against ex-parte. In the written statement the defendant Nos.2(ii)(a), (b), (c), (d) raised preliminary objections regarding maintainability, concealment, misjoinder and nonjoinder of necessary parties, cause of action, locus standi etc. were raised. On merits it was the stand that the suit property was the self-acquired property of Hukam Chand who had died by committing suicide and left the Will dated 11.08.2011. It was submitted that the said Will was a registered Will and duly executed by Hukam Chand after appearing before the Sub Registrar, Karnal along with independent witnesses. Similar written statement was filed by defendant No.2(v). No replication was filed by the plaintiff-appellants.

3. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiffs are entitled for a decree for declaration, as prayed for? OPP
2. Whether the plaintiffs have no locus standit to file the present suit? OPD
3. Whether the suit of the plaintiffs is bad for mis joinder and non joinder of necessary parties? OPD
4. Whether the plaintiffs have no cause of action against the answering defendants? OPD
5. Whether the plaintiffs have concealed the true and material facts from the court? OPD
6. Whether suit of the plaintiffs is not legally maintainable in its present form? OPD
7. Relief.

4. The Trial Court vide judgment and decree dated 05.05.2015 dismissed the suit while inter-alia upholding the Will dated 11.08.2011 executed by Hukam Chand. Aggrieved by the decision of the Trial Court, an appeal was preferred by the plaintiff-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 20.4.2018. Hence, the present regular second appeal by the plaintiff-appellants. Along with the present appeal an application (CM-17035-C-2018) for leading additional evidence has been filed to place on record a Will dated 20.03.2006 purportedly executed by Hukam Chand.

5. The learned counsel for the plaintiff-appellants has contended that both the Courts have erred in dismissing the suit of the plaintiff-appellants. It is urged that the Will dated 11.08.2011 executed by Hukam Chand in favour of his grand-children Ashwani Kumar, Ravi Dutt sons of Sat Narain, Arpan alias Happy son of Suresh Kumar is illegal, bogus, invalid, ineffective, result of fraud and is not binding upon the rights of the plaintiff-appellants. Learned counsel has argued that the Will dated 20.03.2006, now being produced as additional evidence, proved that the Will dated 11.08.2011 is not a valid document and therefore the suit deserved to be decreed.

6. Heard counsel for the plaintiff-appellants and perused the record.

7. In the present case both the Courts have held that the Will dated 11.08.2011 (Ex.D6) was validly executed by Hukam Chand. The said Will is a registered document and was proved in accordance with law. The attesting witness of the Will also deposed in support of its due execution. Moreover, the evidence of the defendants shows clearly that Hukam Chand had disinherited his son Tejbir (defendant-respondent No.1) and his family (plaintiff-appellants) and also cancelled an earlier Will dated 20.03.2006. Though the plaintiff-appellants had made reference to a Will of 2006 in para 8A(iii) of the plaint, no further details regarding the same were disclosed nor was the same put in issue. The plaintiff-appellant No.2 in her examination-in-chief also gave no details about the Will of 2006 which never saw the light of the day till the filing of the present appeal. The Will dated

20.03.2006 cannot be permitted to be produced now as that would amount to re-opening the entire case. Moreover, the said Will would also require to be proved as per the provisions of law. Several factors which led the Courts to uphold the Will dated 11.08.2011 have been dealt with by both the Courts which have not been satisfactorily dislodged by counsel for the plaintiff-appellants. No cogent and reliable evidence has been pointed out by counsel for the plaintiff-appellants in support of the case set-up by them. In absence of any evidence in this regard, the plaintiff-appellants are not entitled to the relief of declaration and permanent injunction. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No credible and reliable evidence has been highlighted by the counsel for the plaintiff-appellants for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued.

8. In view of the discussion above, no question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. The application (CM-17035-C-2018) for leading additional evidence is also dismissed. Other pending applications, if any, also stand disposed off.

**17.03.2025**  
*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

*NOTE :*      *Whether speaking/non-speaking: Speaking*  
                  *Whether reportable: Yes/No*