



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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RSA-2295-2025 (O&M)

Date of Decision.:09.07.2025

Sarbjit Kaur

.....Appellant

Vs.

Raminder Kaur and Others

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Arjun Shukla, Advocate and  
Mr. Abhimanyu Kaushal, Advocate  
for the appellant.

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**DEEPAK GUPTA, J. (ORAL)**

Plaintiff of the case (*now appellant through his LR*) in this Regular Second Appeal against the reversal, inasmuch as suit for declaration filed by the plaintiff, was though decreed by the trial Court vide judgment dated 19.08.2017 but the appeal filed by one of the defendants Raminder Kaur (*now respondent No.1 through her LRs*) was accepted by the first Appellate Court on 12.03.2025, thus denying the relief sought by the plaintiff- appellant.

2. Heard.

3. Sardara Singh was the owner of the property in dispute, who expired on 28.08.1994. He had two sons namely Joginder Singh (plaintiff) and Bhajan Singh and one daughter namely Raminder Kaur (defendant No.1). Defendant Nos.2 to 5 are the legal heirs of Bhajan Singh. Plaintiff laid claim to the suit property on the basis of a Will dated 29.07.1981 to the extent of 2/3rd share in agricultural land and  $\frac{3}{4}$ <sup>th</sup> share in the disputed house by contending that Bhajan Singh i.e. predecessor of defendants Nos.2



to 5 got 1/3<sup>th</sup> share in the agricultural land and 1/4<sup>th</sup> share in the disputed house; whereas, defendant No.1 i.e. daughter was disinherited.

4. The case of the defendant No.1 was based upon natural succession, by denying the execution of any Will by Sardara Singh. According to her, Sardara Singh had died intestate. Even the other defendant Nos.2 to 5 also denied the execution of the Will.

5. Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court held that Will dated 29.07.1981 propounded by the plaintiff was duly proved and as such, decreed the suit. However Appellate Court reversed the said finding by holding that Will was not proved in accordance with law.

6. Assailing the aforesaid reversal, it is contended by learned counsel for the appellant that the first Appellate Court failed to appreciate the evidence on record in right perspective, inasmuch as the signature of the testator Sardara Singh on the Will were duly proved by the testimony of PW-4 Anil Kumar Gupta, handwriting and fingerprint expert. Still further, it is contended that even the signature of Kishan Chand Gupta, the scribe to the Will were proved by his nephew Sudhir Gupta (PW-3). Learned counsel submits that both the attesting witnesses namely Harbans Singh and Krishan Gopal have expired, so Will in question was proved in view of the fact that signature of testator as well as scribe of the Will were duly proved.

7. This Court does not find merit in the aforesaid contention. Section 69 of the Indian Evidence Act reads as under:-

**“69. Proof where no attesting witness found.—**If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the



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person executing the document is in the hand writing of that person.”

8. It is clear from the aforesaid provision that in case both the attesting witnesses to the Will have died, then Will must be proved by proving:

- (i) Signature of the testator
- (ii) Attestation of at least one of the attesting witnesses.

9. In the present case, though plaintiff produced the evidence to prove the signature of the testator but failed to bring on record any evidence to prove attestation of any of the attesting witness to the Will.

10. In the aforesaid facts and circumstances, learned first Appellate Court rightly held that Will was not proved in accordance with law.

11. Consequently, this Court does not find any ground to interfere in the findings recorded by the first Appellate Court, which are found to be based upon proper appreciation of legal as well as factual position.

Dismissed.

All the miscellaneous application(s), if any, stand disposed of.

**(DEEPAK GUPTA)**  
**JUDGE**

**July 09, 2025**

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No