



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

**RSA-2265-2024 (O&M)
Decided on : 11.08.2025**

Gurdeep Singh

..... Appellant

Versus

Ajaib Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sandeep Kumar Bokolia, Advocate
for the appellant.

VIKRAM AGGARWAL, J (ORAL)

This is defendant's appeal against judgment and decree dated 23.07.2024, passed by the Court of Additional District Judge, Moga, dismissing the appeal filed by the defendant against the judgment and decree dated 19.12.2018, passed by the Court of Additional Civil Judge (Senior Division), Moga vide which the suit for declaration, filed by the plaintiffs, was decreed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3(i). The dispute is with regard to the estate (fully described in the plaint), situated in Village Dhudike, Tehsil & District Moga (hereinafter referred to as 'the suit land') which was originally owned by one Nachhattar Singh and after his death, was inherited by his widow Pritam Kaur. Pritam Kaur also expired on



31.07.2013 after which the dispute arose. The plaintiffs are the sons and daughters of Puran Singh, real brother of Nachattar Singh (nephews and nieces of Nachattar Singh) and the defendant is the brother's son of Pritam Kaur (nephew of Pritam Kaur). The plaintiffs instituted a suit for declaration and in the alternate, suit for joint possession qua the suit land. A declaration was sought that the plaintiffs were owners in possession of the suit land and that the alleged mutation of inheritance No.15983 from Pritam Kaur in favour of the defendant was a nullity and in the alternate, joint possession as owners/co-owners was sought.

3(ii). As per the facts set out in the plaint, Chanan Singh had three sons Puran Singh, Nachattar Singh and Hakam Singh and one daughter Kartar Kaur. Puran Singh was married to Nihal Kaur (plaintiff No.6). The couple had three sons namely Ajaib Singh, Jarnail Singh and Karnail Singh (plaintiffs No.1 to 3) and two daughters Harbans Kaur and Kulwant Kaur (plaintiffs No.4 and 5). Nachattar Singh was married to Pritam Kaur and the couple did not have any issue. Hakam Singh never married and, therefore, died as a bachelor. Kartar Kaur had three sons Raghbir Singh, Beant Singh and Jaswant Singh (Jaswant Singh was plaintiff No.7) and two daughters Jasvir Kaur and Balwinder Kaur (Plaintiffs No.8 and 9) whereas, as stated earlier, the defendant was the brother's son of Pritam Kaur.

3(iii). It was averred that after the death of Pritam Kaur, the defendant claimed the execution of an unregistered Will by Pritam Kaur in his favour. It was averred that the said Will, if at all produced by the defendant, was a forged and fabricated document and that the alleged mutation of inheritance on the basis of



the said Will was a nullity in the eyes of law.

3(iv). It was averred that Pritam Kaur was unwell for the last more than five months prior to her death as she was suffering from paralysis and heart problem. She remained admitted in hospital from 24.03.2013 to 10.04.2013 previously at Ludhiana and subsequently at Jagraon. She could neither move nor sit and, therefore, the question of her executing a Will did not arise. It was averred that the mutation had been sanctioned in connivance with revenue officers. Under the circumstances, the suit was instituted.

4(i). The suit was opposed by the defendant. Certain preliminary objections as regards jurisdiction, maintainability, plaintiffs not having approached the Court with clean hands, *locus standi*, cause of action etc. were raised. It was averred that Pritam Kaur used to reside with the defendant and he used to serve her. She remained under medical treatment from 27.02.2013 to 10.04.2013. She had executed a Will dated 11.04.2013 on the basis of which the mutation had been sanctioned.

4(ii). It was also averred that previously a suit titled as Karnail Singh and others versus Pritam Kaur had been instituted which had been decided as a result of which the instant suit did not lie. On merits, all averments were denied.

5. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated. It was averred that the Will dated 11.04.2013 was a forged and fabricated document.

6. From the pleadings of the parties, the trial Court framed the following



issues:-

1. ***Whether mutation no.15983 regarding the inheritance of estate of Pritam Kaur in favour of Gurdeep Singh defendant is nullity in the eyes of law ? OPP***
2. ***Whether plaintiffs are owners in possession of the suit property ? OPP***
3. ***Whether plaintiff is entitled to the alternative relief of joint possession as owners/co-owners to the extent and in the manner as specified in the head note of the plaint ? OPP***
4. ***Whether suit of the plaintiff is not maintainable in the present form ? OPD***
5. ***Whether Pritam Kaur had executed a valid Will in favour of defendant on 11.04.2013 ? OPD***
6. ***Relief.***
7. Parties led their respective evidence.
8. The trial Court decreed the suit filed by the plaintiffs and the appeal filed by the defendant against the said decision was dismissed, leading to the filing of the present regular second appeal.
9. I have heard learned counsel for the appellant.
10. Learned counsel submits that both Courts erred in decreeing the suit filed by the plaintiffs. It has been submitted that after Pritam Kaur had inherited the property from her husband, she became the absolute owner thereof in terms of the provisions of Section 14 of the Hindu Succession Act, 1956 (hereinafter referred to as 'the Succession Act'). He submits that thereafter, she executed a



Will dated 11.04.2013 in favour of the defendant (Gurdeep Singh) which was duly proved and, therefore, the mutation was rightly sanctioned in his favour. Learned counsel submits that both Courts did not examine the matter from the correct perspective and erroneously decreed the same.

11. I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit.

12(i). There is no dispute as regards the relationship of the plaintiffs with Nachattar Singh and the relationship of the defendant with Pritam Kaur. It is also not in dispute that previously, Nachattar Singh was the owner of the suit land and after his death, Pritam Kaur inherited the same. It is also not in dispute that Pritam Kaur expired on 31.07.2013. The question which then arose before the Courts was as to who would be entitled to inherit the suit property. It was found by both Courts that the execution of the Will dated 11.04.2013 did not stand proved. It was, therefore, held that in terms of the provisions of Section 15 of the Succession Act, the suit property would devolve on the plaintiffs and not on the defendants.

12(ii). Coming firstly to the Will dated 11.04.2013, the same having been set up by the defendant, was required to be proved by him. To prove the same, he examined an attesting witness of the Will namely Samundha Singh as DW2. He deposed in the examination-in-chief that he was an attesting witness of the Will. However, he spilled the beans in the cross-examination by stating that he was taken along by the defendant Gurdeep Singh and it was at the instance of the defendant Gurdeep Singh that he had attested the alleged Will. Not only this, the defendant while deposing as DW1 also admitted in his cross-examination that



Pritam Kaur had executed the Will in his presence. The Courts, therefore, rightly came to the conclusion that the Will was shrouded by suspicious circumstances since the propounder of the Will had taken an active part in its execution.

12(iii). Another suspicious circumstance which was rightly noticed by both Courts was that it had come in evidence that Pritam Kaur remained admitted from 24.03.2013 to 10.04.2013 in a Neuro Centre at Ludhiana and then from 10.04.2013 to 21.04.2013 at Kalyani Hospital, Jagraon. The medical record as also the treatment record was produced as Ex.P1 to Ex.P7. Dr. Chander Parkash (PW2) who appeared from Kalyani Hospital, Jagraon deposed that Pritam Kaur had been admitted in Kalyani Hospital, Jagraon on 10.04.2013 at 2:20 p.m. and was discharged on 21.04.2013 at 5:00 p.m. He deposed that she was bed ridden and was unable to move and was being fed with the help of ryles tube and I.V. fluids. The Courts under the circumstances, rightly noticed that once Pritam Kaur was in such a condition, how she executed the Will, had not been explained. No evidence was produced to prove that she had gone out of hospital on 11.04.2013. Further, the defendant deposed that the Will had been executed by her in the DC complex, Moga. It was rightly observed that if she had gone to the DC Complex, Moga, though the same was not proved, what prevented the registration of the Will.

12(iv). To top it all, the hand writing and finger print expert Anil Kumar Gupta, who was examined as PW5 by the plaintiffs, stated that the disputed thumb impressions of the Will in question were unfit for comparison as they were very faint. No expert evidence was led by the defendant to prove the



thumb impressions.

12(v). The defendant could not produce any evidence to prove that he had been living with Pritam Kaur or she had been residing with him for the last 22 years before her death as had been claimed. Rather, in his cross-examination, he admitted that she was living in her house in Village Dhudike, Tehsil & District Moga which was in possession of the plaintiffs.

12(vi). Under the circumstances, the Courts rightly held that the execution of the Will dated 11.04.2013 did not stand proved and that, therefore, in view of the provisions of Section 15 of the Succession Act, the heirs of the husband would be entitled to the suit land.

12(vii). Learned counsel has not been able to point out any illegality in the said findings warranting interference in second appeal. There has been no misreading of evidence by both Courts nor does any question of law arise for the consideration of this Court.

That being so, I do not find any merit in the instant appeal and the same is accordingly dismissed.

Pending application(s), if any, shall stand disposed of accordingly.

11.08.2025
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(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No