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

CR-2511-2025 (O&M)  
Date of decision: 07.05.2025

Gurshaminder Singh and another ...Petitioners

Versus

Jagtar Singh and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Sanjay Kaushal, Sr. Advocate with  
Mr. Arjun Kaushal, Advocate and  
Ms. Arushi Dubey, Advocate for the petitioners.

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**VIKAS BAHL, J. (ORAL)**

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 08.09.2022 (Annexure P-13) passed by the Civil Judge (Junior Division), Bathinda in Civil Suit bearing No.CS-1550-2021 titled as “Gurshaminder Singh and another Vs. Jagtar Singh and others”, whereby an application filed by the petitioners/plaintiffs under Order 39 Rules 1 and 2 read with Section 151 CPC had been dismissed. Challenge is also to the order dated 29.01.2025 (Annexure P-15) passed by the First Appellate Court, Bathinda whereby the appeal preferred by the petitioners against the order dated 08.09.2022 had also been dismissed.

2. Learned Senior Counsel for the petitioners has submitted that in the present case, the petitioners have filed a suit for declaration to the effect that Will No.548 dated 07.11.2014 allegedly executed by Kartar Kaur



widow of Jagroop Singh in favour of defendant Nos.1 and 2/respondent Nos.1 and 2 is a false, fake and fabricated document and the plaintiffs are not bound by the same. It is submitted that challenge in the said suit is also made to mutation No.77811 vide which mutation was sanctioned on 23.06.2021 on the basis of the said Will in favour of defendant Nos.1 and 2. It is further submitted that Kartar Kaur widow of Jagroop Singh was owner of the land in question and she was the mother-in-law of plaintiff No.2/petitioner No.2 and grandmother of plaintiff No.1/petitioner No.1.

3. It is submitted that she had executed an unregistered Will dated 19.10.2014 in favour of plaintiff No.1/petitioner No.1 and the subsequent alleged registered Will dated 07.11.2014 is surrounded by suspicious circumstances, inasmuch as, the said Will dated 07.11.2014 was said to have been registered at 04:17:47 PM on 07.11.2014 and that it has come on record by virtue of statement of PW1-Dr. Bharat Bhushan Jindal that the said Kartar Kaur was admitted at the hospital at 05:00 pm on 07.11.2014. Learned Senior Counsel for the petitioners has referred to the statement of the said Doctor who had been produced as PW1 and has highlighted his evidence in chief to show that Kartar Kaur was suffering from several issues including a fractured hip, with an acute kidney disease and hypertension and that she was admitted at the hospital and was thereafter discharged on 10.11.2014. It is further submitted that the said Kartar Kaur had died on 12.11.2014 i.e., within five days from the execution of the registered Will dated 07.11.2014 and the said circumstances clearly show that there were suspicious circumstances surrounding the said Will. It is submitted that once the said suspicious circumstances were there with respect to the Will



propounded by the respondents No.1 & 2, then, prima facie case in favour of the plaintiffs was established. It is submitted that in the said circumstances, the respondents/defendants should have been restrained from alienating the suit property as the balance of convenience is also in favour of the petitioners/plaintiffs and they would suffer irreparable loss in case the respondents are able to sell the suit property. It is submitted that the impugned orders passed by the trial Court as well as the First Appellate Court are illegal and deserve to be set aside and the reliance sought to be placed upon the mutation proceedings is also against law, as it is a matter of settled law that the civil suit is to be decided independently de hors of the decision in the mutation proceedings which are only summary proceedings. It is thus, prayed that the present revision petition be allowed and the impugned orders be set aside and the application filed under Order 39 Rules 1 and 2 CPC be allowed.

4. This Court has heard learned Senior counsel for the petitioners and has perused the paper-book and finds that the impugned orders are in accordance with law and have been rightly passed and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.

5. It is not in dispute that the plaintiffs/petitioners had filed a suit for declaration in September, 2021. Primary challenge in the said suit is to the registered Will dated 07.11.2014 which is stated to have been executed by Kartar Kaur in favour of defendant Nos.1 and 2, who as per their case are the son and grandson of the said Kartar Kaur. Challenge has also been made to the mutation No.77811 sanctioned on 23.06.2021 on the basis of the said



registered Will. It is the case of the petitioners that there is an unregistered Will dated 19.10.2014 executed by the said Kartar Kaur in favour of petitioner No.1.

6. In the written statement filed by defendant Nos.1, 2, 7 and 8 (annexed as Annexure P-3 along with the present revision petition), it was the specific case of the said defendants that the plaintiffs were on inimical terms with Jagroop Singh and Smt. Kartar Kaur and there were litigation pending between them, including criminal proceedings which had been instituted by plaintiff No.2/petitioner No.2 and in which Jagroop Singh and Kartar Kaur were made accused. It was further their case that the said Kartar Kaur was residing with Jagtar Singh-defendant No.1 and his family in their House No.379, Model Town Planning Scheme and she had died in house No.379, Model Town, Bathinda and that defendant No.1 was the natural born son of Jagroop Singh and Smt. Kartar Kaur. It was the specific plea of the abovesaid defendants that valid registered Will was executed in favour of defendant Nos.1 and 2, who are the natural heirs and the said Will was voluntarily executed by Kartar Kaur, whilst in possession of her senses and the same was scribed by Rajinder Singh, Advocate, Bathinda and was attested by Mukesh Kumar, Ex.M.C. and Sh. Hardeep Singh son of Charanjit Singh, who were the attesting witnesses. It was also stated that Parminder Kaur-defendant No.3, who is the real daughter of Kartar Kaur, had signed the original Will in token of her consent and that the said Will was duly presented before the Registrar and Kartar Kaur had also duly presented herself before the Sub Registrar, Bathinda. It was stated that mutation of inheritance was also sanctioned in favour of defendant Nos.1



and 2 by the revenue authorities on the basis of the said registered Will and that the said registered Will bore the photographs of the testatrix Kartar Kaur along with attesting witnesses before the Sub Registrar and the same also had thumb impressions of Kartar Kaur.

7. It was further their case in the written statement that the said Kartar Kaur had never resided with the plaintiffs, rather she had resided with the defendants. Specific reference was made to FIR No.410 dated 31.05.2008 which was registered by plaintiff No.2/petitioner No.2 under Section 420 read with Section 120-B of IPC at Police Station Kotwali, Bathinda against Kartar Kaur and Jagroop Singh and that Kartar Kaur had to seek bail in the said criminal case which remained pending for several years. It was averred that the plaintiffs had never served Kartar Kaur through her lifetime and the unregistered Will dated 19.10.2014 propounded by the plaintiffs was bogus and a fabricated Will and the same was allegedly executed a day subsequent to the withdrawal of the criminal case, which was withdrawn on 18.10.2014.

8. Plaintiffs along with the suit had filed an application under Order 39 Rules 1 and 2 CPC. The trial Court vide order dated 08.09.2022 had dismissed the said application and while doing so, took into consideration the registered Will dated 07.11.2014, FIR No.410 dated 31.05.2008 as well as the Voter Card, Passport, Ration Card, Identity Card issued by M.C. etc. of defendant No.1, all of which would show that he is son of Jagroop Singh. Reference was also made to the lease deed dated 11.02.2020 and transfer deed dated 10.08.2021, which documents were executed prior to the filing of the suit as the plaint is dated 08.09.2021, but



were not specifically challenged in the suit. The fact that there was an inimical relationship between Kartar Kaur and the plaintiffs was also taken into consideration.

9. Appeal filed by the petitioners was also dismissed by the First Appellate Court on 29.01.2025 and while dismissing the same, the Appellate Court had taken into consideration the fact that there was litigation including criminal litigation pending between the plaintiffs and Kartar Kaur, which prima facie showed that the terms between the parties apparently were not cordial. It was observed by the First Appellate Court that the plaintiffs had to first establish prima facie case which was not established and that even balance of convenience was in favour of the defendants as apart from the fact that the Will dated 07.11.2014 was registered Will, the mutation had also been sanctioned on the basis of the same and the defendants had acted upon the same as lawful owners. On the aspect of irreparable loss, it was observed that in case a transaction is made during the pendency of the case, then, the same would be hit by the doctrine of lis pendens and thus, it could not be said that there would be irreparable loss caused to the plaintiffs. From a perusal of the order passed by the First Appellate Court, it is apparent that several factors were taken into consideration and it cannot be said that the mutation proceedings before the Revenue Court upholding the validity of the registered Will in favour of the defendants, was the sole reason for upholding the judgment of the trial Court. The abovesaid orders passed by the trial Court as well as the First Appellate Court are in accordance with law and would not call for any interference.



10. The Will in favour of defendant Nos.1 and 2 is a duly registered Will and is admittedly the last Will of the executant Kartar Kaur. In pursuance of the order passed by this Court on 28.04.2025, the petitioners have placed on record a copy of FIR No.410 dated 31.05.2008 as well as order dated 18.10.2014 which have been annexed as Annexures A-1 and A-2 with CM-9135-CII-2025. A perusal of the said FIR which was registered in the year 2008 would show that the complainant in the case was plaintiff No.2-Jaspreet Kaur and the persons who had been made accused were Kartar Kaur and Jagroop Singh. Further a perusal of Annexure A-2 which is the order passed by the Judicial Magistrate First Class, Bathinda while exercising the powers of the Presiding Officer, Pre-Lok Adalat would show that the Court had disposed of the criminal proceedings as having been compounded in view of the compromise, which was stated to have been arrived at between Kartar Kaur and plaintiff No.2. From the above, it is prima facie clear that from 2008 to 2014, there were criminal proceedings pending against Kartar Kaur and Jagroop Singh and the said criminal proceedings were initiated by Jaspreet Kaur-plaintiff No.2 and thus, the plea raised by the abovesaid defendants to the effect that there was animosity between Kartar Kaur and the plaintiffs stands substantiated and the question of the plaintiffs taking care of the said Kartar Kaur who had died in the year 2014 itself does not prima facie arise.

11 It is further the case of the plaintiffs that on 19.10.2014, an unregistered Will was executed by the said Kartar Kaur in favour of the plaintiff No.1/petitioner No.1. The said unregistered Will is one date subsequent to the compromise dated 18.10.2014 and it prima facie does not



appear to be an act of free mind of the said Kartar Kaur as she could have very well executed the said document in order to save herself from the criminal proceedings instituted by plaintiff No.2. Moreover, at any rate, subsequent to the said unregistered Will dated 19.10.2014, registered Will dated 07.11.2014 had been executed by the said Kartar Kaur in favour of defendant Nos.1 and 2 and it is a matter of settled law that subsequent Will prevails in case its due execution is proved during trial. From the averments made by the parties, it has also come about that even the daughter of Kartar Kaur (defendant No.3) had given consent to the registered Will dated 07.11.2014 and thus, the said factor also weighs in favour of the defendant Nos.1 and 2. The aspect with respect to the consent of the daughter of Karar Kaur is also apparent from a bare reading of the Will dated 07.11.2014 which has been annexed as Annexure P-7 with the present revision petition. Additionally, the registered Will dated 07.11.2014 was attested by Mukesh Kumar, Ex-M.C. and one Hardeep Singh. The endorsement made before the Sub Registrar (at running page 91 of the paper book) also records the fact that the contents of the deed had been read over to the executant Kartar Kaur, who had admitted the same to be correct and the parties to the deed had been identified by Mukesh Kumar, Ex.M.C. and Hardeep Singh and Parminder Kaur, who is the daughter of the said Kartar Kaur.

12. On the aspect of prima facie case, another fact needs to be highlighted. The date of the plaint in the present case is 08.09.2021 and a perusal of the plaint would show that it is the case of the plaintiffs that defendant No.1-Jagtar Singh through transfer deed dated 10.08.2021 had transferred a part of the suit property and that defendant No.1 through



another sale deed dated 13.08.2021 had sold some other part of the suit property. However, no specific challenge to the said transfer deed/sale deed has been made in the suit (Annexure P-1). In the said circumstances, the plaintiffs would also have to overcome the aspect as to whether the suit, more so, qua the land which is covered by the said transfer deed and sale deed, is maintainable and as to whether the plaintiffs can claim any right with respect to the said part of the land. With respect to the aspect of irreparable loss, it would be relevant to note that once the Court is of the opinion that the plaintiffs do not have a prima facie case, then, unnecessary restraint order on the rights of the defendants would prejudice their rights more than the rights of the plaintiffs. As noted above, certain transfers of suit land had already been made prior to the filing of the suit which have not been specifically challenged. Moreover, any transfer made subsequent to the filing of the suit would be hit by the doctrine of lis pendens and thus, the said aspect also weighs more in favour of the contesting respondents/defendants. The observations made by the Courts with respect to balance of convenience also does not call for any interference.

13. In the light of the abovesaid findings, the arguments raised by the learned Senior Counsel for the petitioners to the effect that there are certain suspicious circumstances surrounding the registration of the Will, would not call for setting aside of the impugned orders as the same are a matter of trial. Even a perusal of the evidence of PW1-Dr. Bharat Bhushan, which has been highlighted on behalf of the petitioners would show that there is nothing to suggest that Kartar Kaur was of unsound mind so as to not be able to execute the registered Will. Physical condition of a person is



different from the mental condition of the said person. PW1 Dr. Bharat Bhushan Jindal when examined-in-chief had not specifically stated that Kartar Kaur was of unsound mind on 07.11.2014 or was incapable of executing the registered Will. In his cross-examination, the said PW1 had stated that in the patient record, the word “unconscious” had not been used. It had also been stated that it was Jagtar Singh (contesting defendant No.1) who had left the patient in his clinic and Kartar Kaur was discharged on 10.11.2014 in a better condition and that he could not say anything about the activity of the patient before she was admitted in his clinic. It was further stated that his fee was not paid by Jagtar Singh as he was known to PW1 and that it was on 26.11.2014 that petitioner No.2 had come to make the payment and he was not aware as to how the payment was made by plaintiff No.2/petitioner No.2-Jaspreet Kaur, when Kartar Kaur had been admitted by Jagtar Singh. Suggestion was given to him that he was deposing falsely at the instance of the plaintiff No.2.

14. Thus, on the basis of the said evidence, it cannot be prima facie said that the deceased-Kartar Kaur was of unsound mind or was not capable of executing the Will on 07.11.2014 and all the aspects including the aspect as to whether the said Doctor (PW1) was deposing at the instance of plaintiff No.2/petitioner No.2 or not, would be considered at the time of trial. Moreover, plaintiffs themselves are alleging that Kartar Kaur executed an unregistered Will dated 19.10.2014 in their favour and the subsequent registered Will has been executed on 07.11.2014 only after a period of 19 days from the date of the earlier unregistered Will dated 19.10.2014 and thus, it cannot be accepted prima facie, that Kartar Kaur was of sound mind



on 19.10.2014, but not on 07.11.2014, more so, when there is no evidence to show that Kartar Kaur was of unsound mind on 07.11.2014. Thus, the impugned orders passed by the trial Court as well as the First Appellate Court deserve to be upheld.

15. The Hon'ble Supreme Court in the case of **“Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil”**, reported as **(2010) 8 Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

16. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the impugned orders do not call for any interference by this Court while exercising its powers under Article 227 of



the Constitution of India and accordingly, the impugned orders are upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

17. Needless to say that the observations made in the present order are only for the purpose of deciding the present revision petition in which challenge is to the orders passed under Order 39 Rules 1 and 2 CPC and the observations made in the same would not be construed as an expression of final opinion on the merits of the case and the trial Court would decide the suit independently of the observations made by this Court, after taking into consideration the pleadings, evidence and arguments raised by the parties concerned at the time of final hearing.

18. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**07.05.2025**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**