



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

(126)

RSA-2774-2025 (O&M)

Date of Decision:-**12.08.2025**

BALWINDER SINGH AND OTHERS.

... Appellants

Versus

JASWANT SINGH AND OTHERS

... Respondents

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Jagdish Singh Mahal, Advocate,
for the appellant.

VIRINDER AGARWAL, J. (Oral)

1. Appellants/plaintiffs filed suit for declaration claiming them to be owners in possession of suit lands (fully detailed in Schedule (A) to (E) of the plaint) and mortgage-in-possession over the land as detailed in Schedule (F) to (H) of the plaint having been inherited from Mohinder Singh on the basis of registered Will dated 10.11.2010 and for restraining the defendants from interfering in the possession of the appellants/plaintiffs or alienating the suit land in any manner or in the alternative suit for possession of the properties on the grounds that appellants/plaintiffs inherited the estate of Mohinder Singh, son of Bur Singh, resident of Bhagtana Boharwala, Tehsil Dera Baba Nanak, District Gurdaspur, Punjab on the basis of registered Will dated 10.11.2010 and that defendants No. 1 to 3 alleged some other Will in their favour. The Will executed in favour of defendants No.1 to 3 is illegal, null and void and ineffective, as the same was cancelled by Mohinder Singh vide registered Will dated 10.11.2010.

2. Mutation No.1046 is illegal, null and void. Defendants No.4 to 6 alleged that they had purchased some land out of suit land from defendants No.1 to 3. The alienations, if any, are result of collusion and conspiracy and are not binding upon the



rights of the appellants/plaintiffs. Appellants/plaintiffs are in actual physical possession over the suit land. Defendants threatened to encroach upon the suit land; hence, the instant suit.

3. Defendants No.1 contested the suit, whereas, defendants No.2 and 3 were proceeded against *ex parte*. Defendant No.1 denied execution of Will dated 10.11.2010 in favour of plaintiffs and alleged that the same is false, forged, fabricated, result of collusion and conspiracy of the plaintiffs with defendant No.2, scribe and marginal witnesses. Mohinder Singh was not competent to execute any Will. The suit property was ancestral coparcenary property of joint Hindu family. Defendants has birthright in the same. Plaintiff in collusion with defendant No.2, scribe and the witnesses have got executed some other Will dated 14.07.2010 from Mohinder Singh, which was cancelled by Mohinder Singh vide Will dated 03.09.2010 executed in favour of defendants No.1 to 3. After death of Mohinder Singh, defendants No.1 to 3 inherited the estate on the basis of registered Will dated 03.09.2010 and prayed for dismissal of the suit.

4. Defendants No.4 and 5 filed separate written statements alleging that they have purchased 16 kanals 11 marlas of land from defendants No.1 and 3 vide sale deed dated 28.03.2011 as they are co-sharers in possession over land 16 kanals 11 marlas out of suit land. Defendants are *bona fide* purchasers for value without any notice. Defendant No.6 also contested the suit claiming himself to be *bona fide* purchaser for consideration without any notice. As vide sale deed dated 03.09.2010, he purchased three marlas of land from defendants No.1 to 3. Replications were filed denying the averments of the written statement and reiterating the contents of the plaint.



5. From the pleadings, following issues were framed:-

1. Whether plaintiffs are entitled to the relief of declaration as prayed for? OPP
2. Whether the plaintiffs are entitled to consequential relief of permanent injunction as prayed for? OPP
3. Whether the plaintiffs are entitled to the alternative relief of possession as prayed for? OPP
4. Whether the deceased Mohinder Singh has executed any Will dated 10.11.2010 in favour of the plaintiffs? OPP
5. Whether plaintiffs have got no locus standi to file the present suit? OPD
6. Whether the present suit is not maintainable? OPD
7. Whether the suit is bad for non-joinder of necessary parties? OPD
8. Whether the suit is not properly valued for the purpose of Court fee and jurisdiction? OPD
9. Relief.

6. In order to prove these issues, parties led their respective evidence.

7. After hearing arguments, learned Civil Judge dismissed the suit. The appeal was filed. Learned Additional District Judge dismissed the appeal and upheld the judgment of the learned Civil Judge.

8. Aggrieved by the concurrent findings recorded by both the Courts below, present appeal has been filed on the grounds that the findings recorded by both the Courts below are not in consonance with the pleadings and evidence on record and the judgments are based upon surmises and conjectures. The learned Courts below has illegally ignored the registered Will dated 10.11.2010 executed in favour of appellants/plaintiffs. The Will is duly registered, so there is a presumption that testator was of sound disposing mind as no objection was raised by the registering authority regarding mental condition of Mohinder Singh at the time of execution of



Will. The learned Courts below wrongly ignored the Will. Perusal of the paper book and impugned judgments clearly show that guardian of minors appellants PW3 Ranjeet Kaur has admitted in cross-examination that Mohinder Singh was not in proper state of mind for about one month prior to his death on 11.12.2010 and the Will propounded by the appellants/plaintiffs is of 10.11.2010. The learned Courts below has recorded that during the period of five months immediately prior to death of Mohinder Singh, Mohinder Singh has executed three registered Wills one after the other. First Will was executed in favour of appellants/plaintiffs on 14.07.2010, which was cancelled vide Will dated 03.09.2010 and subsequently, that Will was also cancelled vide third registered Will on 10.11.2010.

9. The learned Courts below has rightly come to the conclusion that this fact of getting multiple inconsistent Wills executed within a period of five months coupled with the statement of next friend of appellant/plaintiff-Ranjeet Kaur proves that during that period, Mohinder Singh was of feeble mind and was not of stable mind. He has not spelled out the reasons for executing one Will after the other after cancelling the earlier Will. Both the Courts below has appreciated the evidence correctly. No substantial question of law arises for consideration of this Court. Considering that there is no illegality or perversity in the findings recorded by both the Courts below, there is no reason to interfere in the concurring judgments and decrees passed by Courts below, as such, finding no merit in the present appeal.

10 Accordingly, the present appeal is dismissed and pending miscellaneous application(s), if any, are also disposed of accordingly.

12.08.2025
S. Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No