



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

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RSA-9713-2018 (O&M)

Date of Decision.:25.02.2025

Sukhwinder Singh

.....Appellant

Vs.

Kulwant Singh and Others

.....Respondents

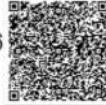
CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rishabh Gupta, Advocate
for the appellant.

DEEPAK GUPTA, J. (ORAL)

Suit for declaration with consequential relief of permanent injunction regarding property in dispute filed by plaintiff Sukhwinder Singh (*appellant herein*) was dismissed by the trial court on 21.03.2015 and the appeal filed by him was dismissed by the first Appellate Court on 07.08.2018. Against this concurrent findings, the plaintiff of the case has approached this Court by way of present Regular Second Appeal.

2. Dispute pertains to the estate left behind by Arjan Singh son of Kartar Singh, who was the paternal uncle (father's brother) of plaintiff and defendant Nos.7 and 8. Defendant Nos.1 to 6 are the widow and five children of Arjan Singh. Plaintiffs claimed suit property on the basis of the Will dated 25.04.2007 purported to have been executed by Arjan Singh in favour of plaintiff and defendant Nos.7 and 8; and alleged mutation No.6041 in favour of contesting defendants i.e. legal heirs of Arjan Singh on basis of natural succession, to be null and void. On the other hand, the contesting defendants alleged the Will to be forged and fabricated document.



3. Both the Courts below found the Will to be surrounded by numerous suspicious circumstances and dismissed the suit.

4. It is contended by learned counsel for the appellant before this Court that Courts below have failed to appreciate the evidence on record in right perspective, inasmuch as the Will propounded by the appellant-plaintiff was duly proved by its scribe as well as the attesting witness.

5. After hearing learned counsel for the appellant and going through the judgments passed by the Courts below, this Court does not find any merit in the appeal.

6. It has been found by the Courts below that though the deceased had a wife living at the time of his death and five children, there was no reason for discarding the said legal heirs. So much so, there was not even mention of wife in the Will. It was found further that there was absolutely no evidence to show that relations of Arjan Singh with his wife or children were strained in any manner. Rather, Arjan Singh, who used to reside in England had already given his property to his sons in England and so, there could be no question of any strained relations with the sons. Courts below also found that though Arjan Singh was an educated person, living in a developed country, it was quite suspicious that he got the Will scribed from Karam Chand, an agriculturalist & Matriculate, instead of getting it scribed from a regular deed writer despite the fact that Tehsil Office was situated at the distance of hardly 7-8 kms from the house of Arjan Singh, where the regular deed writers are available. Not only this, the Will in question was an unregistered document and there was no reason why Arjan Singh, will not get it registered. The Courts also noticed the contradiction in the stand of the plaintiff inasmuch as plaintiff earlier stated that Will in question was handed over to him by Arjan Singh few days after

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the execution of the same but in the affidavit filed later after the amendment, he omitted this said fact and claimed that Will was found by him to be lying at his house, after one and half year from the death of Arjan Singh and that earlier he was not in the knowledge of the same. This act and conduct of the appellant-plaintiff also put doubt about the genuineness of the Will.

7. This Court does not find any reasons to differ from the concurrent views taken by the Courts below. Even it be assumed that execution of the Will was proved by statement of scribe and attesting witness, it has been rightly observed by both the Courts below based on proper appreciation of the evidence on record that Will is surrounded by numerous suspicious circumstances, which could not be dispelled by the plaintiff-appellant.

8. As such, this Court does not find any reason to disturb the concurrent findings of facts recorded by the Courts below. There is no illegality or perversity in the findings of the Courts below.

No merits. Dismissed.

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

**(DEEPAK GUPTA)
JUDGE**

February 25, 2025

Neetika Tuteja

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