



**RSA No. 1089 of 2000**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RSA No. 1089 of 2000 (O&M) and**

**COCP No. 2360 of 2015**

**Reserved on: 07.07.2025**

**Pronounced on: 17.07.2025**

**Smt. Roop Wati & Anr.**

**...Appellants**

**Versus**

**Smt. Birma Devi**

**...Respondent**

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

**Argued by:-** Mr. V.K. Jindal, Sr. Advocate with  
Mr. Keshav Pratap Singh, Advocate,  
Mr. Nitin Sansanwal, Advocate and  
Mr. Bharat Singh Chauhan, Advocate  
for the appellants.

Mr. Adarsh Jain, Advocate with  
Ms. Amandeep Kaur, Advocate  
For the respondent.

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**DEEPAK GUPTA, J.**

The plaintiffs have preferred the present Regular Second Appeal against the judgment & decree dated 12.10.1999 passed by the First Appellate Court, whereby their suit for declaration & permanent injunction was dismissed, thus reversing the judgment & decree dated 27.07.1996 passed by the learned Trial Court, which had decreed the suit in their favour.

2. The Trial Court record was called and perused. For the sake of convenience, the parties shall be referred to by their status before the Trial Court.

3. The dispute pertains to land measuring 53 kanals 15 marlas, as detailed in paragraph 2 of the plaint, situated within the revenue estate of village Bhud, Tehsil Palwal, District Faridabad, as per Jamabandi for the year 1982–83. The property was owned by Dharam Singh, who passed away on 08.02.1989.

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4.1 **Plaintiffs' Case:** As per plaintiffs, they along with the defendant, are the three daughters of Dharam Singh. They alleged that the suit property was ancestral in nature and, therefore, each daughter was entitled to 1/3rd share. On 22.02.1989, when the plaintiffs approached the concerned Patwari for entering the mutation of their respective shares, they discovered that two decrees had already been obtained by the defendant:

- Decree dated 16.10.1984 in Civil Suit No. 455 of 1984; and
- Decree dated 16.01.1986 in Civil Suit No. 967 of 1985,

On the basis of decree dated 16.01.1986, mutation No. 216 dated 30.12.1986 had also been sanctioned in the name of the defendant.

4.2 The plaintiffs challenged the above decrees and mutation on the grounds of fraud and misrepresentation, alleging:

- Defendant falsely claimed in the earlier suits that she was the sole daughter of Dharam Singh and that there were no other legal heirs.
- No summons were served upon Dharam Singh; he neither appeared in court nor submitted any written statement.
- There was impersonation in court proceedings.
- Discrepancy with respect to the extent of land involved in both suits (53 kanals 15 marlas in one and 45 kanals 16 marlas in the other).
- Plaintiffs were not party to either suit and hence, not bound by the said decrees.

4.3 Plaintiffs prayed for:

- Declaration that the decrees dated 16.10.1984 and 16.01.1986 and consequent mutation were null and void,
- Permanent injunction restraining the defendant from alienating the suit property.

5. **Defendant's Stand:** In her written statement, the defendant raised preliminary objections as to maintainability and locus standi of the

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plaintiffs, asserting that plaintiffs were not daughters of Dharam Singh; that she (defendant) was the only daughter, and the exclusive owner in possession of the suit property. Ownership of suit property was claimed by the defendant by virtue of impugned decrees; and a registered Will dated 20.11.1984 executed by Dharam Singh in her favour. Defendant further contended that the suit property was not ancestral but self-acquired of Dharam Singh; that plaintiffs had prior knowledge of the decrees and the Will. Defendant denied allegations of fraud and emphasized that she served her father for over 20 years and prayed for dismissal of the suit.

6. ***Trial Court Findings:*** Upon framing of issues and considering evidence of both parties, the Trial Court found:

- Defendant did not form a joint Hindu family with Dharam Singh; hence, a consent decree could not be passed in favour of a stranger.
- Such a decree required registration, which was absent.
- Though the Will relied by the defendant was supported by the attesting witnesses but it was surrounded by suspicious circumstances, as the property was transferred by Dharam Singh to Birma three times; father-in-law of Birma was one of the attesting witness, and there was unequal distribution of the property. The Will was accordingly discarded.

Consequently, the impugned judgment and decree; as well as the Will propounded by defendant were held to be not binding on the plaintiffs. Suit was accordingly decreed.

7. ***First Appellate Court Findings:*** In the appeal filed by the defendant, the First Appellate Court:

- Upheld the Trial Court's finding that the impugned decrees were null and void, as daughters did not have any pre-existing right in the father's property, and thus, there could be no family settlement through consent decree, which also lacked registration.
- However, the appeal was partly accepted to the extent that the Will dated 20.11.1984 was valid, on the following grounds:

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- Dharam Singh had no male lineal descendant.
- Relation between Dharam Singh and the plaintiffs did not appear cordial due to earlier litigation by plaintiff No. 2.
- Will was validly registered, with compliance of formalities.
- Mere presence of the beneficiary at the time of registration did not invalidate the Will.

Accordingly, the appellate court accepted the defendant's claim under the Will and dismissed the suit.

8. ***Present Appeal:*** The plaintiffs, aggrieved by the reversal of the Trial Court's decree, have preferred the present Regular Second Appeal, challenging the findings of the First Appellate Court particularly with respect to the validity of the Will.

9.1 ***Contentions by Ld. Sr. Advocate for the appellants:*** It is contended by Ld. Senior advocate for the appellants – plaintiffs that the First Appellate Court failed to appreciate that the Will dated 20.11.1984 was surrounded by multiple suspicious circumstances, which include: multiple transfers of the suit land by Dharam Singh in favour of the same beneficiary (defendant) in a short span; attestation of the Will by the father-in-law of the defendant and another close relative of the father-in-law, i.e., both interested witnesses; exclusion of natural heirs (plaintiffs) without any valid explanation; presence of the beneficiary (defendant) at the time of execution and registration of the Will. Besides, there was no prior litigation between plaintiff Roop Wati with her father so as to ignore her, and that there is no mention in the Will to ignore the plaintiffs for any such reason. These factors raise grave suspicion, which was correctly assessed by the Trial Court, but wrongly ignored by the Appellate Court.

9.2 It is argued further that the First Appellate Court did not appreciate that the defendant's bare denial of the plaintiffs' status as daughters of Dharam Singh could not displace the evidence and assertions made by the plaintiffs, especially when no documentary evidence was produced by the defendant to the contrary.

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9.3 Besides, both earlier consent decrees, i.e., those dated 16.10.1984 and 16.01.1986, were fraudulent, based on an assertion that Dharam Singh had no other child except daughter Birma; and Birma's husband being projected as Dharam Singh's son. These decrees have also been rightly ignored for want of registration. The appellate court also failed to appreciate that once the foundation of the defendant's claim stood vitiated by fraud, any dependent claim (like the Will) must be strictly scrutinized.

9.4 Still further, the Appellate Court itself acknowledged that there could be no family settlement between father and daughter since the daughter had no pre-existing right. However, it failed to apply the same logic to the so-called Will, which was executed in similar suspicious circumstances.

9.5 Concluding his submissions, it is urged that the Appellate Court failed to provide any convincing rationale for overturning the Trial Court's reasoned judgment, which had thoroughly assessed the genuineness of the Will and found it wanting due to serious legal infirmities and factual inconsistencies. Prayer is accordingly made to set aside the judgment & decree dated 12.10.1999 passed by the learned First Appellate Court; and to restore the judgment & decree dated 27.07.1996 passed by the learned Trial Court.

10.1 ***Contentions by Ld. Advocate for the respondent:*** Refuting the contentions raised by the appellants, learned counsel for the respondent-defendant has submitted that the plaintiffs have failed to produce on record any document, plaint, written statement, or the judgment & decree dated 16.10.1984. Only the judgment & decree dated 16.01.1986 has been exhibited by the plaintiffs. Neither the plaint, nor the written statement, nor any statement recorded before the Court was placed on record. Further, no expert witness was examined to prove the alleged absence of thumb impression or signature of Dharam Singh, or to establish his non-appearance in Court. In view thereof, the plaintiffs' allegations of fraud,

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misrepresentation, and impersonation, as well as their challenge to the decree, remain unsubstantiated and have rightly been rejected.

10.2 It is further contended that both the Courts below have erred in holding that a father and daughter could not constitute a family for the purposes of a family settlement or that no family settlement could be entered into between them. The Courts have also wrongly held that the daughter had no pre-existing right in the property of her sonless father. Reliance is placed on ***Khushi Ram vs. Naval Singh, 2021 AIR (Supreme Court) 1117***, wherein it was held that married female heirs on parental side cannot be held as strangers for the purpose of succession.

10.3 It is urged that the finding that a consent decree admitting ownership of the defendant required registration is also contrary to the settled proposition of law, as it is well established by this Court and the Hon'ble Supreme Court that a consent decree acknowledging ownership of a party does not require registration. Reliance is placed on ***Khushi Ram vs Nawal Singh 2012 AIR (Supreme Court) 1117***.

10.4 Learned counsel further submits that the registered Will dated 20.11.1984 was duly executed and registered. Both attesting witnesses— Dhani Ram and Deep Chand Sharma have appeared in the witness box and proved its execution. The mere presence of the defendant at the time of execution of the Will does not by itself raise any suspicious circumstance or indicate exercise of undue influence particularly when the testator Dharam Singh remained alive till 08.02.1989. Moreover the original Will was produced from the office of the Sub Registrar by DW.1 Registration Clerk. DW.4, the son of the Deed Writer has identified his father's handwriting, signature and the relevant entry in the register containing the thumb impression of Dharam Singh. As such the Will stands duly proved and the findings of the appellate Court in this regard call for no interference.

11. I have heard learned counsel for the parties at length and have appraised the record carefully.

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12. Two decrees dated 16.10.1984 and 16.01.1986 purported to be suffered by Dharam Singh in separate civil suits in favour of defendant Birma are under challenge by the plaintiffs. Besides, defendant has propounded a registered will dated 20-11-1984 in her favour. Both the decrees have been declared to be null and void by trial court as well as the Appellate Court mainly for want of registration. Will was discarded by the trial Court but held to be valid by the Appellate Court.

13. It is undisputed that Dharam Singh, the father of the parties, was the last owner of the suit property. Although, plaintiffs claimed the suit property to be ancestral in the hands of Dharam Singh but stand of defendant is that it is his self-acquired property. The revenue record shows Dharam Singh to be owner. There is absolutely no evidence on record to prove the nature of the suit property as ancestral, as was contended by the plaintiffs. As such, there can be no doubt in holding that suit property was exclusively owned by Dharam Singh.

14. Although, there is concurrent findings by both the Courts below declaring both the decrees dated 16.10.1984 and 16.01.1986 to be null and void for want of registration and the said finding rendered against the defendant-respondent has not been separately assailed, but it is submitted by learned counsel for the respondent that in the present appeal as filed by the appellant- plaintiffs, defendant-respondent is at liberty to assail the findings regarding the said decrees as well. This contention is not disputed by Ld. Sr. Advocate for the appellants.

15. As far as the decree dated 16.10.1984 stated to be passed in civil suit No. 455 of 1984 is concerned, neither its pleadings nor any statements made by the parties nor the judgment or decree have been produced in evidence. In the absence of any evidence regarding the said judgment or decree, the Court is unable to comment as to regarding which property it was suffered. As such, defendant cannot lay any claim in the suit property on the basis of any such decree.

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16. Coming to the decree dated 16.01.1986 passed in civil suit No. 967 of 1985, copies of said Judgment & decree are Ex.P5 & Ex.P6. Copy of mutation based on this decree is Ex P4. The copy of the judgment Ex. P5 would reveal that defendant of the present case Smt. Birma had filed that suit against her father namely Dharam Singh claiming to be owner in possession of the suit property on the basis of a family settlement. Defendant of that case Dharam Singh admitted the claim and based on that admission; the suit was decreed. Except for the said judgment and decree, neither pleadings nor the statements made before the Court, have been produced in evidence.

17. Although, this Court is unable to accept the view taken by the courts below to the effect that a father could not have a joint family with his married daughter; or that there could not be a family settlement between a sonless father and his daughter but at the same time, in order to hold a decree suffered by the father in favour of his married daughter, it is necessary as to when the family settlement had taken place and as to whether the daughter had pre-existing right in the suit property, which was exclusively owned by father. There is no evidence on record in order to show as to when the family settlement had taken place between Smt. Birma and Dharam Singh as is referred in Ex.P5. In the absence of any evidence that any family settlement had taken place before filing of the suit, in which the decree dated 16.01.1986 was passed, it is difficult to hold that Smt. Birma had any pre-existing right in the suit property.

18. Besides, the said decree dated 16.01.1986 is apparently based upon fraud, inasmuch as it was contended by the plaintiff of that case Smt. Birma that she was the only daughter of Dharam Singh and that Dharam Singh did not have any other daughters. The assertion of the plaintiffs of the present case so as to assail this decree on this ground, has not been specifically denied by the defendant of this case i.e. Smt. Birma and rather, she asserted that plaintiffs are not the daughters of Dharam Singh. Said

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assertion of defendant - respondent Birma Devi is contrary to the evidence on record.

19. Apart from the oral evidence on record proving that plaintiffs are also the daughters of Dharam Singh along with Smt. Birma, even in the Will Ex. D1 propounded by the defendant, the testator is mentioning that he has three daughters i.e. both the plaintiffs Roop Wati & Jayanti and the defendant Birma. Not only this, Tara Chand is admittedly the husband of Smt. Birma and he is the son of Dhani Ram. However, in the judgment & decree Exs. P5 & P6, said Tara Chand is shown to be son of Dharam Singh.

20. The above facts in itself prove the decree dated 16.01.1986 to be fraudulent in nature. In these facts and circumstances, the Courts below did not commit any error in holding the said decree dated 16.01.1986 to be based upon fraud and so, null and void.

21. Decree dated 16.01.1986 has also been held to be null & void for the reason that it was unregistered, conveying title in immovable property worth more than ₹ 100/- for the first time in favour of defendant Birma Devi.

22. In ***Kale & Ors. Vs. Deputy Director of Consolidation & Ors, AIR 1976 SC 807***, Hon'ble Supreme Court, after referring to numerous precedents, including that of Privy Council and different High Courts, laid down certain principles relating to the family settlement. In paragraph 10 of the judgment, it was held as under:-

“In other words to put the binding effect and the essentials of a family settlement in a concretised form, the matter may be reduced into the form of the following propositions:

(1) The family settlement must be a bona fide one so as to resolve family disputes and rival claims by a fair and equitable division or allotment of properties between the various members of the family;

(2) The said settlement must be voluntary and should not be induced by fraud, coercion or undue influence;

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(3) The family arrangement may be even oral in which case no registration is necessary;

(4) It is well-settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the record or for information of the court for making necessary mutation.

In such a case the memorandum itself does not create or extinguish any rights in immovable properties and therefore, does not fall within the mischief of s. 17(2) of the Registration Act and is, therefore, not compulsorily registrable;

(5) The members who may be parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property, which is acknowledged by the parties to the settlement. Even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the Courts will find no difficulty in giving assent to the same;

(6) Even if bona fide disputes, present or possible, which may not involve legal claims are settled by a bona fide family arrangement which is fair and equitable the family arrangement is final and binding on the parties to the settlement”.

23. In ***Bhoop Singh vs Ram Singh Major 1995(3) RRR 541***, Hon’ble Supreme Court held that Clause (vi) of Section 17(2) of the Registration Act is meant to cover that decree or order of a court including a decree or order expressed to be made on a compromise, which declares the pre-existing right and does not by itself create new right, title or interest in the immovable property of the value of ₹100 or more. If compromise decree is bonafide, not a device to obviate payment of the stamp duty and frustrate the law of registration, it would not require registration.

24. It is thus clear from the legal position as explained above that that parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property, which is

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acknowledged by the parties to the settlement. So much so, even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the Courts will find no difficulty in giving assent to the same. However, at the same time, in order to give binding effect to a family settlement, it must be bona fide so as to resolve family disputes and rival claims by a fair and equitable division or allotment of properties between the various members of the family. Further, the compromise decree should not be a device to obviate payment of the stamp duty and frustrate the law of registration, otherwise, it would require registration.

25. In the present case, as already noted, there is no evidence of any prior family settlement between Dharam Singh and the defendant, Smt. Birma, particularly one involving the plaintiffs—his other two daughters. Consequently, the alleged family arrangement cannot be considered bona fide, nor does it reflect a fair and equitable distribution of the property among all three daughters. On the contrary, the so-called settlement, which forms the basis of the decree dated 16.01.1986, entirely disregards the rights of the plaintiffs—appellants. Moreover, the decree is tainted by fraud, as Smt. Birma misrepresents herself as the sole daughter of Dharam Singh, while her husband, Tara Chand, is incorrectly shown as his son.

26. Still further, in the absence of any evidence suggesting a prior family settlement before the suit was filed, Smt. Birma cannot be said to have any pre-existing right in the property. Therefore, the decree dated 16.01.1986, lacking registration, has been rightly declared void by both the courts below.

27. Ld. Counsel for the respondent has referred to ***Khushi Ram's case (supra)***, wherein it was held that consent decree declaring plaintiffs as

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owner in possession of half share in the land did not require registration and that married female heirs on parental side cannot be held strangers for the purpose of succession. While the legal principle is sound, the facts in *Khushi Ram* differ significantly. That case involved no fraud, and the decree was based on a genuine prior settlement by an issueless paternal aunt in favour of her nephews. Accordingly, the decree there was upheld without registration.

28. Similarly, in **Gurcharan Singh & Ors. v. Angrez Kaur & Anr., 2020 AIR (SC) 2912**, the decree was passed upon the defendant's admission of the plaintiff's pre-existing right. It was on that factual basis that the Hon'ble Supreme Court held registration to be unnecessary. However, in the present matter, no such settlement or admission exists, and the decree dated 16.01.1986 has been found to be fraudulent.

29. The impugned decree, which formed the basis for mutation in favour of the defendant, is vitiated not only by the absence of registration but also by misrepresentation, including the false claim of sole heirship. As such, the concurrent findings of the courts below, declaring the decree null and void due to fraud and lack of legal validity, warrant no interference and are accordingly affirmed.

30. Coming to the Will Ex.D1 founded by the defendant, said will is purported to be scribed by Narayan Singh document writer and witnessed by two witnesses namely Dhani Ram and Sh. D.C. Sharma Advocate. Giriraj, son of Narayan Singh has been examined by the defendant as DW4, who proved the signature and handwriting of his father Sh. Narayan Singh and proved that it is scribed by his father. He also proved the relevant entry in his register.

31. Both the attesting witnesses namely Dhani Ram as well as D.C. Sharma also entered the witness box as DW3 and DW6 respectively and proved execution of the Will by Dharam Singh in favour of defendant Smt. Birma. However, what is most important to notice is that DW3 Dhani Ram

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i.e. one of the attesting witnesses is the real father-in-law of beneficiary Smt. Birma; whereas, Sh. D.C. Sharma, another attesting witness is the brother of real brother-in-law of Dhani Ram, thus, closely related to the beneficiary.

32. It is, thus, apparent that both the attesting witnesses to the Will are closely related to the beneficiary-defendant Smt. Birma. Not only this, Smt. Birma herself was present at the time of execution of the will as has been admitted by her during cross-examination.

33. The above circumstances in itself make the authenticity of the Will highly doubtful.

34. Not only this, there are other suspicious circumstances surrounding the Will, inasmuch as no reason is given to discard the other two real daughters i.e. the plaintiffs. As per the contents of the Will Ex. D1, the testator had three daughters i.e. Roop Wati, Jayanti and defendant Smt. Birma. All the three daughters are married. As per the testator, defendant Birma i.e. beneficiary was taking care of him and so, he wanted to bequeath his property in her name. These facts as disclosed in the Will are contrary to the facts proved on record, inasmuch voter list of Smt. Birma Devi defendant would reveal that she is the resident of Panhera Khurd, whereas the testator Dharam Singh was resident of village Bhud. There is no evidence to show that defendant, the married daughter was taking care of her father i.e. the beneficiary.

35. As per the contentions raised by counsel for the respondent, one of the plaintiffs Roop Wati had filed a suit for permanent injunction against her father Dharam Singh and so their relations were tensed due to which she was ignored. In the first place, no such thing is mentioned in the will to the effect that on account of any previous litigation, Dharam Singh was ignoring his daughter Roop Wati. Even if the said contention is found to be correct, there was no reason to ignore the other daughter Jayanti. All

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these aspects have been ignored by the first Appellate Court while holding the will to be valid.

36. In order to contend that mere presence of the beneficiary should not be considered to be a suspicious circumstance, particularly when testator remained alive for approximately three years after the execution of the Will, learned counsel for the respondent has relied upon ***Gurdial Singh vs. Rattan Kaur, 1996(2) R.R.R. 248***. In that case, earlier Will was in favour of the plaintiff. Reasons were given by the deceased so as to cancel the earlier Will by executing a registered will by specifically reciting that the deceased and the appellant had become disobedient and the deceased was fed up on account of his bad habits. It was also recited that he was executing the Will while in full sound and disposing mind in favour of the defendant-respondent, who was looking after him and that he was happy on account of the services rendered by him. Will was a registered document. It was proved by the scribe as well as the attesting witnesses. There was no suggestion to lead to the conclusion that defendant had exercised influence upon the deceased leading to the execution of the Will. It was in these circumstances that this Court took the view that it could not be said that beneficiary had prevailed upon the will of the testator in executing a Will in her favour simply because she had accompanied the testator and that her role is not *per se* sufficient to annul the will.

37. I am afraid that the facts of the aforesaid authority are quite distinguishable. In the present case, as has been noted above, both the attesting witnesses are closely related to the beneficiary Smt. Birma - one being her real father-in-law and the other being the brother of brother-in-law of the father-in-law. In these facts and circumstances, when both the witnesses are closely related and defendant is present at the time of execution of the Will and the contents of the Will are also factually incorrect, the mere registration of the Will cannot be held to be a ground so as to hold it as valid.

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38. It is quite apparent from the evidence that the Will was the result of fraud and undue influence exercised by the beneficiary i.e. defendant Smt. Birma in cohort with her close relatives i.e. father-in-law and other close relative. The Will cannot be stated to be the result of free mind of the testator.

39. Apart from above, prior to the Will, a decree had allegedly been suffered by Dharam Singh. The repeated decrees and the subsequent Will in itself create suspicion in the mind of Court that the different instruments were being got executed by the defendant in her favour to grab the share of her sisters in the suit property and as such, the trial Court had rightly discarded the will.

40. The Trial Court had, on detailed appraisal of the evidence, rightly discarded the Will for being surrounded by suspicious circumstances, inter alia, repeated transfers in favour of the same beneficiary within a short period, presence of interested attesting witnesses (*father-in-law and relative of father-in-law of the defendant*), and exclusion of the plaintiffs without cogent justification. It also took note of the undue involvement of the defendant at the time of execution and registration of the Will and the absence of any mention in the Will to justify exclusion of the plaintiffs, who claim to be the daughters of the testator. These factors, in the considered opinion of the Trial Court, rendered the Will unworthy of reliance.

41. The First Appellate Court, while upholding the finding of the Trial Court that the earlier consent decrees were invalid for want of registration and absence of pre-existing rights in favour of the beneficiary, nevertheless reversed the well-reasoned conclusion of the Trial Court on the Will. The appellate court's justification rested primarily on formal compliance with procedural requirements, i.e., registration and attestation, and the existence of some estrangement between the testator and one of the plaintiffs.

42. However, it is trite law that the mere satisfaction of formal requirements does not dispense with the obligation to dispel suspicious

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circumstances when they exist. The burden lies on the propounder of the Will to remove such suspicions, particularly when natural heirs have been excluded without explanation and attestation is done by interested witnesses. The findings of the Appellate Court fall short in addressing these aspects, which were otherwise cogently analysed by the Trial Court.

43. Furthermore, the defendant's denial of the plaintiffs' status as daughters of Dharam Singh remained a bare assertion, unsupported by any documentary or reliable oral evidence. No cogent rebuttal has been produced to dislodge the presumption arising in favour of the plaintiffs' relationship with the deceased, especially in the face of specific pleadings and deposition.

44. The First Appellate Court's conclusion that the Will should be upheld despite acknowledging the invalidity of the consent decrees results in an internally inconsistent view. Once the foundational claim of exclusive heirship stood vitiated on account of fraud, any ancillary benefit sought to be derived from the Will ought to have been subject to strict scrutiny—something the Appellate Court failed to do adequately.

45. In view of the foregoing discussion, this Court is of the opinion that the learned First Appellate Court erred in reversing the judgment of the Trial Court, which was based on a thorough evaluation of the evidence and relevant legal principles.

46. Accordingly, the present appeal is allowed. The judgment and decree dated 12.10.1999 passed by the First Appellate Court are hereby set aside. The judgment and decree dated 27.07.1996 passed by the learned Trial Court decreeing the suit of the plaintiffs are restored.

47. It is made clear that both the plaintiffs as well as the defendant will inherit the suit property of their father Dharam Singh in equal share being the natural legal heirs.

No order as to costs.

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48. As far as **COCP No. 2360 of 2015** is concerned, it was filed by the appellants - plaintiffs of the case to initiate contempt proceedings against the respondent for violating the stay order granted by this court, whereby alienation was stayed. However, this COCP was not at all pressed during arguments by learned counsel for the Appellants and as such, the same is disposed of being not pressed.

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

**17.07.2025**

***Jiten***

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No