



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

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**RSA-3316-2023 (O&M)  
Date of decision : 16.09.2025**

**Deewan Singh @ Diwan Singh**

**..... Appellant**

**versus**

**Tehal Singh and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Prince Sharma, Advocate  
for the appellant.

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**PANKAJ JAIN, J. (Oral)**

1. Defendant No.1 is in appeal.
2. Plaintiffs filed suit seeking a decree of declaration to the effect that the plaintiffs along with defendant No.3, are entitled to succeed to the estate left by Shindo, their mother. Suit was resisted by defendant No.1-the appellant Deewan Singh, who sought right to the estate left by Shindo on the basis of Will dated 20.12.2005.
3. The Courts below came to the conclusion that defendant No.1-the propounder of the Will having failed to prove execution thereof in terms of Section 63(c) of the Indian Succession Act, 1925 by leading evidence in light of Section 68 of the Indian Evidence Act, 1872, plaintiffs are entitled to succeed to the estate left by Shindo on the basis of natural succession.
4. Counsel for the appellant has assailed the findings recorded by the Courts below. He submits that the defendant No.1, who propounded the Will executed by Shindo, proved the same in



accordance with law. Shindo sister of defendant No.1, has executed a valid Will. One of the witnesses, Baaz Singh, died on 22.12.2016. His son Harchand Singh appeared as DW2 and identified the signatures of Baaz Singh. The other attesting witness Dial Singh was won over by the plaintiffs. Thus, the propounder of the Will proved the same in terms of Section 69 of the Evidence Act.

5. I have heard counsel for the appellant and have carefully gone through the records of the case.

6. Shindo sister of the appellant-defendant No.1 inherited 1/32 share out of the land measuring 135 kanal 13 marla from her father, Tarlok Singh. It is the said estate of Shindo which is in dispute. Plaintiffs claimed the estate of Shindo being her sons. Defendant No.1 has propounded Will dated 20.12.2005. The WILL propounded by appellant has been signed by two attesting witnesses, namely Baaz Singh and Dial Singh. Though Dial Singh was alive, defendant No.1 opted to examine Harchand Singh, son of Baaz Singh, who had died on 22.12.2016 to prove execution of the Will. Before the Lower Appellate Court, an application was moved under Order XLI Rule 27 CPC to examine Dial Singh. Being alive, Dial Singh could have been well examined before the trial court to prove execution of Will. The propounder of the Will-the appellant instead of examining Dial Singh, examined Harchand Singh to prove the signature of Baaz Singh. A bare perusal of Section 69 of the Evidence Act, 1872 shall reveal that the same can be invoked only when no attesting witness can be found.

7. Counsel for the appellant has not been able to point out as to how Section 69 of the Evidence Act can be resorted to, once one of



the witnesses to the Will propounded by the appellant was alive and could have been examined during the course of trial.

8. In view of above, this Court does not find any reason to interfere in the pure finding of facts recorded by the Courts below dispelling the Will propounded by the appellant-defendant No.1 and holding plaintiffs entitled to succeed to the estate of Shindo by way of natural succession.

9. Finding no merits in the present appeal, the same is ordered to be dismissed.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)**  
**JUDGE**

**16.09.2025**

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Whether speaking/reasoned : Yes

Whether Reportable : No