



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

108

1. RSA-5181-2015 (O&M)  
Date of decision: 24.04.2025

ANAND PARKASH (DECEASED) THROUGH LRS.

..Appellant

Versus

CHAND KRISHAN (DECEASED) THROUGH LRS. AND ORS

..Respondents

2. COCP-2973-2019

ANAND PARKASH

..Petitioner

Versus

HONEY AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

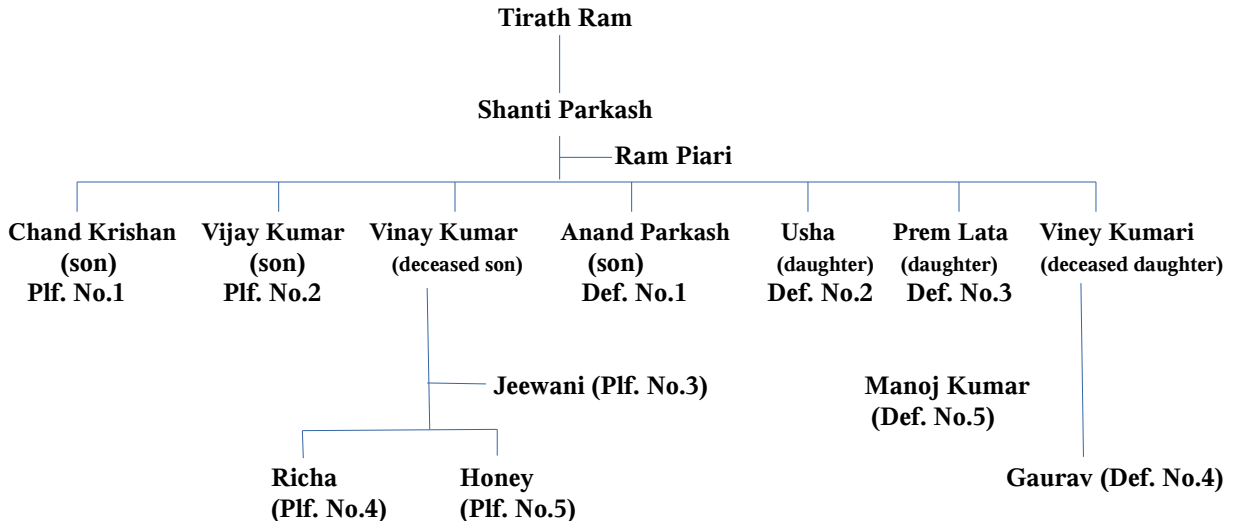
Present: Mr. Amit Jhanji, Sr. Advocate with  
Ms. Priyanka Kansal, Advocate for the appellant.

Mr. Aakash Singla, Advocate for respondent No.1 to 5.

ANIL KSHETARPAL, J(Oral)

1. With the consent of learned counsel for the parties, two connected cases i.e. RSA-5181-2015 and COCP-2973-2019, shall stand disposed of by this common order.

2. The following genealogy illustrates the relationship of the parties:-





3. It is evident that Smt. Ram Piari had four sons and three daughters. Sh. Shanti Parkash bequeathed some part of his property in favour of his wife Smt. Ram Piari. Initially, on 10.01.2001, Smt. Ram Piari executed a general power of attorney in favour of her eldest son namely Sh. Anand Parkash, which was cancelled on 04.03.2004. On the same day i.e. 04.03.2004, Smt. Ram Piari executed a registered Will bequeathing her property in favour of her four sons namely Sh. Chand Krishan, Sh. Vijay Kumar, Sh. Vinay Kumar and Sh. Anand Parkash. Subsequently, she sold some part of the property in favour of Smt. Gurmeet Kaur on 20.10.2005, however, the sale deed has not been produced on the file. On 21.03.2006, she execute a registered Will with respect to two residential plots in favour of Sh. Anand Parkash. This Will was attested by two attesting witnesses namely Sh. Anil Kumar, Municipal Commissioner and DW-4 Sh. Ranjit Singh. On 03.05.2006, Smt. Ram Piari once again executed a general power of attorney in favour of her eldest son Sh. Anand Parkash authorizing him to sell her property. On 07.11.2007, Smt. Ram Piari once again executes a registered Will in favour of Sh. Anand Parkash with respect to her agricultural land. This will was attested by two witnesses namely Sh. Ashok Kumar, Municipal Commissioner and DW-4 Sh. Ranjit Singh.

4. Sh. Anand Parkash on the strength of general power of attorney dated 03.05.2006 executed sale deed of 8 kanals and 12 marlas in favour of Smt. Angrej Kaur wife of Sh. Ranjit Singh.

5. There was litigation between the family members as Sh. Vijay Kumar filed civil suit on 28.10.1996 challenging the bequest made by his



father Sh. Shanti Parkash in favour of Smt. Ram Piari, which was dismissed on 11.02.2002.

6. The plaintiffs namely Sh. Chand Krishan, Sh. Vijay Kumar, Smt. Jeewani, Smt. Richa and Sh. Honey filed suit for declaration that they are owners in possession of the property as per the Will dated 04.03.2004. Sh. Anand Parkash contested the suit claiming two registered Wills in his favour dated 21.03.2006 and 07.11.2007.

7. Both the Courts have held that execution of the Will dated 21.03.2006 and 07.11.2007 in favour of Sh. Anand Parkash and execution of Will dated 04.03.2004 in favour of four sons is proved, however, the Wills dated 21.03.2006 and 07.11.2007 have been discarded on the following suspicious circumstances:-

- i. There is lack of clarity with regard to the age of the testator Smt. Ram Piari because in the first Will dated 04.03.2004, her age is disclosed as 80 years, whereas in the Will dated 21.03.2006, again her age is disclosed as 80 years and in the Will of the year 2007, her age is disclosed as 85 years.
- ii. The testator has not disclosed about Sh. Vinay Kumar's death, who died on 23.06.2004. Though, she has disclosed about the death of her daughter Smt. Viney Kumari.
- iii. DW-4 Sh. Ranjit Singh is husband of Smt. Angrej Kaur, the purchaser of the agricultural land measuring 8 kanals and 12 marlas vide sale deed dated 22.11.2007,



which was executed by Sh. Anand Parkash as attorney of Smt. Ram Piari, hence, he was attesting witness.

8. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the requisitioned record.

9. On the request of the Court, deposition of DW-4 Sh. Ranjit Singh, the attesting witness of the Wills dated 21.03.2006 and 07.11.2007 has been read over. The plaintiffs counsel never sought any explanation from the attesting witness with regard to alleged suspicious circumstances. The photograph of the testator Smt. Ram Piari have been appended on both the registered Wills dated 21.03.2006 and 07.11.2007. The plaintiffs have not led any evidence to prove that she did not thumb mark the Wills dated 21.03.2006 and 07.11.2007. As per Section 68 of the Evidence Act, 1872 (in short '1872 Act'), the Will can be proved by examining one of the attesting witness. In this case, DW-4 Sh. Ranjit Singh, attesting witness of both the Wills dated 21.03.2006 and 07.11.2007 has been examined and has proved the Wills in accordance with Section 68 of the '1872 Act'.

10. This Bench now proceeds to analyse the alleged suspicious circumstances surrounding both the Wills dated 21.03.2006 and 07.11.2007.

11. In the Will dated 04.03.2004, her age is disclosed as 80 years, whereas in the Will dated 21.03.2006, again her age is disclosed as 80 years. The Will is not a proof of date of birth or age. The old lady of 80 years may struggle to disclose her exact age, however, this cannot be circumstance to doubt the correctness of a registered Will. In the year 2007, she disclosed her age as 85 years. Moreover, both the Courts have erred in overlooking the fact



that on 03.05.2006 Smt. Ram Piari again executed a power of attorney in favour of Sh. Anand Parkash, which is not under challenge. Its correctness has never been doubted by the plaintiffs.

12. Though, Smt. Ram Piari has failed to particularly disclose about the death of Sh. Vinay Kumar, her son, while executing the Wills dated 21.03.2006 and 07.11.2007, however, she has disclosed about her children and both the Wills are thumb marked by her. Both the Wills are registered and her photographs in the presence of Joint Registrar are appended on both the Wills. It is not the case of the plaintiffs that Smt. Ram Piari was not present in the photographs, hence, her identity is also not in dispute.

13. The last suspicious circumstance is with reference to DW-4 Sh. Ranjit Singh, who is husband of Smt. Angrej Kaur. It may be noted that Sh. Ranjit Singh was a neighbour as he used to cultivate the land adjoining to the land of Smt. Ram Piari and Sh. Anand Parkash. He was one of the natural witness. Though, he has failed to disclose the details of Smt. Ram Piari's children, however, that cannot be only reason to discard the Will. Moreover, Sh. Anand Parkash as attorney of his mother Smt. Ram Piari executed a sale deed on 22.11.2007, which is subsequent to the Wills dated 21.03.2006 and 07.11.2007.

14. Additionally, Smt. Ram Piari was facing litigation from 1998 when her son Sh. Vijay Kumar, had filed civil suit challenging the Will executed by Sh. Shanti Parkash in her favour. Subsequently, Sh. Vijay Kumar also filed a criminal complaint, hence, Smt. Ram Piari had sufficient exposure to the world and could take decisions independently.



15. It is also evident that the explanation of Sh. Ranjit Singh with regard to the alleged suspicious circumstances was not sought. A Will executed by the testator is a solemn document and the Courts are not expected to interfere with the wishes of the testator. The Will can be discarded on suspicious circumstances, unless, the foundation in this regard has been made in the pleadings, as well as those suspicious circumstances should be confronted to the attesting witness seeking his explanation.

16. Keeping in view the aforesaid discussion, the regular second appeal is allowed. The judgments passed by both the Courts below are set aside and the suit filed by the plaintiffs shall stand dismissed.

**COCP-2973-2019**

17. The infringement of interim order passed by this Court is alleged.

18. Since, the main appeal has been decided, therefore, no further order is required to be passed.

19. Hence, the civil original contempt petition is disposed of.

20. All the pending miscellaneous applications, if any, are also disposed of.

**April 24<sup>th</sup>, 2025**

*Ayub*

**(ANIL KSHETARPAL)  
JUDGE**

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