

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2025.PHHC.022701



CR-3086-2023

DATE OF DECISION: 17.02.2025

RAJ KUMAR SINGAL

...PETITIONER

VS.

SURINDER KUMAR SINGAL AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Santosh Sharma, Advocate and
Mr. Rana Gurtej Singh, Advocate
for the petitioner.

Mr. Achin Gupta, Advocate
Mr. Karan Bansal, Advocate
for respondent No.1 and 2.

ANIL KSHETARPAL, J (ORAL)

1. The petitioner herein is a defendant in a pending plaintiffs suit for grant of decree of declaration to the effect that the unregistered Will dated 10.05.2007 allegedly executed by Smt. Kaushalya Devi with respect to half share of House No.147, Sector 28 A, Chandigarh in favour of defendant is illegal, null and void.

2. An application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC') to reject the plaint has been dismissed by the trial Court. The correctness of the aforesaid order is impugned in this revision petition. Learned counsel representing the petitioner contends that in the year 2008, the plaintiffs themselves filed an affidavit acknowledging the correctness of the Will. He submits that the suit was filed in the year 2022, hence it was filed beyond the period of limitation.



3. This Court has considered the submissions and perused the copy of plaint which has been annexed.

4. The plaintiffs are two sons of Late Smt. Kaushalya Devi whereas defendant is the third son. Plaintiffs have alleged that there was joint Hindu Family and defendant was its 'karta'. As requested by the defendant, the plaintiffs in good faith signed the affidavit, however now they have come to know that the Will is forged and fabricated by defendant. In these circumstances, the basic issue would be whether the Will propounded by the defendant is genuine or not. Ordinarily, the issue of limitation is a mixed question of law and fact. Plaintiff has claimed knowledge of the aforesaid facts in December 2019. At this stage, only the averments made in the plaint are required to be examined.

5. Learned counsel representing the petitioner relies upon a recent judgment of the Supreme Court in ***“Shri Mukund Bhavan Trust and others vs. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Another 2024 SCC OnLine SC 3844”***. This Court has carefully read the judgment. In that case, registered sale deed executed in favour of trust was sought to be challenged after the prescribed period of limitation. In that context, the Supreme Court held that the plaint was required to be rejected under Order VII Rule 11 (d) of the CPC. In the facts of this case, the aforesaid judgment will not be applicable.

6. Moreover, the parties are involved in various inter se litigations which are pending at Panipat.



7. Keeping in view the aforesaid facts, the present petition is disposed of.

(ANIL KSHETARPAL)
JUDGE

17.02.2025

Ayub/poonam

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*