



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

223-2

**RSA-1318-2011 (O&M)  
Date of decision : 21.05.2025**

**Kuldeep Kaur**

**..... Appellant**

**versus**

**Mohinder Singh and others**

**..... Respondents**

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

Present: Mr. Abhinav Sood, Advocate for  
Mr. S.S. Salar, Advocate  
for the appellant.

Mr. Arvind Mittal, Advocate  
for respondents No.1, 3 and 8

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

1. The present appeal relates to estate left by deceased Kartar Singh.
2. Plaintiff propounded Will dated 07.02.1986 and decree dated 12.03.1986. The decree was set aside vide judgment and decree dated 01.03.1999 Ex.D2. While disbelieving the Will, the Lower Appellate Court observed as under:-

“xx xx To prove this will, she has examined one of its attesting witnesses Basawa Singh as PW-1, but he failed to prove its due execution. He has nowhere stated that who scribed the Will, nor it has been deposed by him that after scribing the same, the scribed had read over the contents of the Will to be deceased and the deceased after admitting the same to be correct, thumb marked the same in their presence. He also do not disclose about the name of other witnesses. He also has not deposed that the Will was



presented before the Sub Registrar or that the Sub registrar had also read over the contents of the Will in their present to the deceased and the deceased after admitting the same to be correct, thumb marked the Will in the presence of the Sub Registrar. In fact, this witness has not stated about the registration of the Will at all. Rather, in his cross-examination, he has stated that he had thumb marked the Will only once before the scribe when it was typed. Thus, there is nothing on the file that either Kartar Singh or the attesting witnesses had appeared before the Sub Registrar to get the same registered, nor there is anything that the executants or any of the marginal witnesses had thumb marked the Will in the presence of Sub Registrar after admitting the contents of the Will to be correct. Therefore, the due execution of the Will is not proved on the file. PW-2 Sucha Singh, the other attesting witnesses of the Will, has not appeared for cross-examination. Therefore, his affidavit Ex. PW2/A filed in the shape of his chief examination, cannot be read into evidence. Apart from this, the original Will has not been produced on the file at all. No explanation has been given for not producing the original Will on the file. It is a settled law that a photocopy of the Will cannot be read into evidence without permission of the court to lead secondary evidence. xxx”

3. Counsel for the appellant has not been able to point out as to how the pure findings of fact recorded by the Lower Appellate Court to the aforesaid effect can be faulted with.

4. For the reasons that the execution of Will could not be proved and that the original Will was never brought on the file, the Lower Appellate Court has rightly non-suited the plaintiff.



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

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

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

**21.05.2025**

Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No