

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****Reserved on: September 17, 2025****Pronounced on: September 23, 2025****(i) RSA No.295 of 1989 (O&M)****Charanji Lal (Deceased) through LRs Appellant****Vs.****Baldev Singh and others Respondents****(ii) COCP No.532 of 1993****Dev Raj and another Petitioners****Vs.****Baldev Singh and others Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA****Argued by:-** Mr. Subhash Aggarwal and Mr. Gurtej Singh, Advocates
for the appellant.

Mr. Jasdeep Singh Gill, Advocate for respondent No.10.

DEEPAK GUPTA, J.

This Regular Second Appeal has been filed by the plaintiff against the judgment and decree dated 24.08.1988 passed by the learned First Appellate Court, whereby the judgment and decree of the trial Court dated 16.09.1986 decreeing the plaintiff's suit for declaration and injunction was set aside, and the suit was dismissed.

2. For convenience, the parties shall be referred to by their status as before the trial Court.

3. **Facts:** The dispute concerns the estate of one Hazara Ram, son of Chandu Ram. He was married to Ganga Devi, but the couple had no children. Hazara Ram died on 16.11.1978, and his widow Ganga Devi died on 17.10.1980.

4. As per the pedigree table furnished by the plaintiff, Ralla Ram had three sons, namely, Chandu, Ralli and Biru Ram. Hazara Ram was the son of Chandu Ram. Plaintiff Charanjit Lal (*appellant herein*) is the son and defendant No.2 Rao is the daughter of Biru Ram, while defendant No.1 Dalipa is the son of Ralli.

5. The plaintiff, Charanjit Lal (*appellant herein*) claimed ownership of the estate of Hazara Ram on the basis of a Will dated 28.05.1978, allegedly executed by Hazara Ram in his favour. He also relied upon an agreement dated 19.05.1979, executed by Ganga Devi, acknowledging the said Will and for receiving maintenance of ₹1,100/- per month from the plaintiff.

6. Defendants No.1 and 2 denied execution of the Will and agreement and claimed that the mutation was rightly sanctioned in favour of Ganga Devi.

7. Defendant No.3 Bhag Mal, brother of Ganga Devi, contested the claim on the strength of a Will dated 03.10.1980, allegedly executed by Ganga Devi in his favour.

8. ***Trial Court Findings:*** After framing issues and taking evidence of both the parties, the trial Court accepted the Will dated 28.05.1978 propounded by the plaintiff as duly proved, holding that Hazara Ram had bequeathed his estate to the plaintiff. It also upheld the agreement dated 19.05.1979 executed by Ganga Devi acknowledging the Will. On this basis, the trial Court held that Ganga Devi was not competent to execute a Will in favour of defendant No.3, as the property had already vested in the plaintiff by virtue of Hazara Ram's Will. The Will dated 03.10.1980 was consequently rejected, and the plaintiff's suit was decreed.

9. ***First Appellate Court Findings:*** The First Appellate Court reversed the above findings. It held that the Will dated 28.05.1978 set up by the plaintiff was surrounded by suspicious circumstances, which were not dispelled by him. Conversely, it accepted the Will dated 03.10.1980 propounded

by defendant No.3 as validly executed by Ganga Devi, observing that she had inherited the property of Hazara Ram as his sole heir. Plaintiff's suit was accordingly dismissed.

10. **Submissions:** Assailing the reversal, Learned counsel for the appellant argued that the First Appellate Court erred in discarding the Will dated 28.05.1978, which was duly proved by attesting witnesses PW2 Chaman Lal and PW3 Parma Nand. It was further submitted that Ganga Devi herself acknowledged this Will by executing the agreement dated 19.05.1979 (Ex.P2) in favour of the plaintiff. Hence, the plaintiff alone succeeded to the estate of Hazara Ram, and Ganga Devi lacked competence to execute any Will in favour of defendant No.3.

11. *Per contra*, learned counsel for the respondents supported the judgment of the First Appellate Court, submitting that the Will dated 28.05.1978 was rightly discarded as being unnatural and improbable. It was further contended that after Hazara Ram's death, his widow Ganga Devi became the natural heir and absolute owner under Section 14 of the Hindu Succession Act, and therefore had the right to execute the Will dated 03.10.1980 in favour of her brother Bhag Mal.

12. This Court has carefully considered the rival submissions and perused the record.

13. **Analysis by this court:** The core issue revolves around the legality and validity of the two Wills. If the Will dated 28.05.1978 propounded by the plaintiff is upheld, he becomes the owner of Hazara Ram's estate, rendering Ganga Devi incompetent to execute any subsequent Will. Conversely, if the said Will is discarded, Ganga Devi inherited the estate as the sole Class-I heir and was competent to execute a Will in favour of her brother.

14. The execution of the Will dated 28.05.1978 was no doubt proved by its attesting witnesses, but mere proof of execution is not sufficient. The propounder must also dispel all suspicious circumstances surrounding the

Will. The First Appellate Court has elaborately detailed these suspicious features, including:

- the unnatural exclusion of Ganga Devi (aged 65 years), who was living with and serving Hazara Ram (aged 90 years), leaving her to the mercy of distant cousin;
- the improbability of Hazara Ram, a well-educated man and an advocate, executing such a Will at Ludhiana through strangers rather than at Garhshankar where he resided;
- the non-registration of the Will despite Hazara Ram's legal background;
- contradictions in the plaintiff's own testimony regarding service to Hazara Ram; and
- the dubious nature of the agreement (Ex.P2), allegedly executed by Ganga Devi, which stood contradicted by her subsequent conduct in contesting the mutation.

15. This Court concurs with the reasoning of the First Appellate Court that the Will dated 28.05.1978 is shrouded with suspicious circumstances and cannot be accepted as genuine. Once this Will is discarded, the estate of Hazara Ram devolved upon his widow Ganga Devi as her absolute property under Section 14 of the Hindu Succession Act.

16. As regards the Will dated 03.10.1980 (Ex.D1) executed by Ganga Devi in favour of her brother Bhag Mal, its execution has been duly proved by attesting witness Balwant Singh, Nambardar (DW1). His testimony satisfies the requirements of Section 63 of the Indian Succession Act and Section 68 of the Evidence Act. The Will is also a registered document carrying a presumption of correctness, which the plaintiff failed to rebut.

17. The trial Court erred in discarding this Will without properly appreciating the evidence. As correctly noted by the First Appellate Court, the

expert opinion relied upon by the trial Court was flawed, as the standard thumb impressions used for comparison were themselves doubtful.

18. In view of the above discussion, this Court finds no infirmity in the judgment of the First Appellate Court. The Will dated 28.05.1978 set up by the plaintiff stands rightly discarded, while the Will dated 03.10.1980 executed by Ganga Devi in favour of her brother Bhag Mal stands duly proved.

19. Consequently, the appeal is devoid of merits and is hereby dismissed. The judgment and decree of the First Appellate Court are affirmed.

COCP No.532 of 1993

20. This petition, filed by appellants to initiate contempt proceedings against respondents N: 1 to 3 (sons of Bhagmal) for willfully disobeying orders dated 24.2.1989 and order dated 11.12.1992, was not pressed during arguments and so, same is disposed of as not pressed for.

September 23, 2025
Sarita

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No