



RSA-9714 of 2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-9714-2018 (O&M)

Decided on : 03.09.2025

Lalit Kishore

.....Appellant

Versus

Yash Pal & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Ravi Malhotra, Advocate, for the appellant.

DEEPAK GUPTA, J.

CM-6257-C of 2025

This is an application under Section 151 CPC for placing on record Annexure A-1.

For the reasons mentioned in the application, the same is allowed and Annexure A-1 is taken on record.

Application stands disposed of accordingly.

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Defendant No.1 of the case is before this Court against the concurrent findings of the Courts below.

2. Dispute pertains to the property owned by Sh. Jatinder Mohan Duggal, who expired on 11.06.2007. Sole plaintiff Yash Pal (*respondent No.1 herein*) & defendant No.1 Lalit Kishore (*appellant herein*) are the sons; defendant No.2 Mrs. Nand Rani (*respondent No.2 herein*) is the widow; and defendants No.3 and 4 (*respondents No.3 and 4*) are the daughters of deceased Sh. Jatinder Mohan Duggal. After the death of Sh. Jatinder Mohan Duggal, one of his sons Yash Pal filed the suit seeking separate possession by way of partition of his 1/5th share in the suit property by claiming that

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Sh. Jatinder Mohan Duggal had died intestate, leaving behind the parties as the only legal heirs.

3. Only defendant No.1 i.e. appellant herein contested the suit and set up a Will dated 02.05.2007 in his favour to have been executed by Sh. Jatinder Mohan Duggal.

4. The trial Court decreed the suit vide judgment & decree dated 22.12.2016 and the Appellate Court affirmed the findings vide judgment dated 05.03.2018, while dismissing the appeal of appellant-defendant No.1.

5. Assailing the concurrent findings, it is contended by learned counsel that Will relied upon by appellant has been wrongly discarded by the Courts below.

6. Heard.

6. In order to appreciate the contention of appellant to the effect that will has been wrongly discarded, it will be relevant to reproduce the contents of the document (purported Will) dated 02.05.2007, the translated copy of which has been placed on record by counsel for the appellant as Annexure A-1. It reads as under:-

“Will

I, Jatinder Mohan son of Shri Amar Chand, son of Shri Daulat Ram, age 66 years, resident of NC 209, Kot Kishan Chand, Jalandhar City Dahan, make the following statement as a declaration in the presence of the undersigned witnesses:-

1. *That presently, I am suffering from the last stage of liver cancer and there is no certainty of my life.*

2. *That some legal proceedings concerning my property are ongoing in the courts, and I wish that after me, my younger son Shri Lalit Kishore should handle their follow-up. He is also my legal and rightful heir. I have full faith in him that he will not act dishonestly towards anyone and will properly manage all movable and immovable property, including handling*

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my medical care and property distribution if needed. I have full trust in him. Therefore, I have written this declaration in full consciousness and without any pressure or greed, so that it may be used in time as needed. I hereby grant full rights to pursue all civil or other types of legal proceedings to my above-mentioned son Lalit Kishore, resident of Kot Kishan Chand, age 42 years. After resolving the disputes, he may divide, sell or use the property as he wishes.

Witness

Jaswant Singh

Son of Sh. Avtar Singh

Sd/- Jatinder Mohan Duggal

dated 2.5.07

*Village Kabulpur Post Office Shekhe Pind signature or mark of
District Jalandhar Jatinder Mohan.*

7. Ld. First Appellate Court has rightly observed that by way of document dated 02.05.2007, referred by the appellant as a Will of Sh. Jatinder Mohan Duggal, the executant did not bequeath any property in appellant's favour and rather, he only authorized the appellant to pursue the cases regarding his movable and immovable property pending in various Courts and to look after and manage the property and after resolving the dispute, partition the same, if required.

8. The intent of the executant would reveal that he only wanted Sh. Lalit Kishore i.e. appellant to look after ongoing litigation and manage his properties. Mere mentioning of the word that after resolving the dispute, said Lalit Kishore 'shall divide, sell or use the property, as he wishes', does not at all mean that executant Sh. Jatinder Mohan Duggal bequeathed his properties in favour of his son Sh. Lalit Kishore. The clear intention of the executant Sh. Jatinder Mohan Duggal is not at all discernible so as to make Sh. Lalit Kishore as the owner of his property after his death.

9. In view of aforesaid facts and circumstances, this Court does not find any justiciable ground to interfere in the well reasoned findings as



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recorded by the Courts below. The appeal being devoid of any merits is hereby dismissed.

03.09.2025

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**(DEEPAK GUPTA)
JUDGE**

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