



RSA-132-1994 (O&M)

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

**RSA-132-1994 (O&M)
Reserved on 12.02.2026
Pronounced on : 13.05.2026
Uploaded on : 13.05.2026**

Whether only operative part of the judgment is pronounced? *No*

Whether full judgment is pronounced? *Yes*

Ajaib Singh (since deceased) thr. LRs. & ors.Appellants

Versus

Bhupinder Singh & anr.Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. M.L.Sarin, Senior Advocate with
Ms. Himani Sarin, Advocate
for the appellants.

Ms. Gurneet Sagoo, Advocate
for respondent No.1.

Mr. S.S.Swaich, Advocate
Mr. G.S.Salana, Advocate
Ms. Ishani Goyal, Advocate and
Mr. Shakti Mehta, Advocate
for respondent No.2.

PANKAJ JAIN, J.

1 Plaintiffs are in second appeal. For convenience, parties hereinafter are referred to by their original position in the suit, i.e. the appellants as plaintiffs and respondents as defendants.

2 Plaintiffs filed suit seeking decree of joint possession of the suit land. As per the plaintiffs, Ralla Singh was the owner of land situated within

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the revenue estate of Village Bugga, forming part of the suit land. He was unmarried. He died on 26.07.1975. Plaintiffs are sons and grandsons of Ralli, sister of Ralla Singh. Ralla Singh was served and looked after by the plaintiffs. He executed WILL *qua* his estate on 03.07.1975 in favour of plaintiffs out of natural love and affection. However, the estate of Ralla Singh was mutated in the name of defendant No.1 on the basis of forged and fabricated WILL. Land is in possession of defendant No.2 who is paying rent to defendant No.1. Plaintiffs by instituting present suit on 29.11.1983 sought decree of joint possession claiming to be the successors-in-interest of Ralla Singh.

3 Defendant No.1 in his written statement claimed to be grandson and sole legal heir and successor-in-interest of Ralla Singh. Relationship between plaintiffs and Ralla Singh was denied. As per defendant No.1, Ralla Singh always lived at Village Tohra with the family of defendant No.1 and was being looked after and served by family of defendant No.1. Defendant No.1 disputed that Ralla Singh ever executed WILL dated 03.07.1975 in favour of plaintiffs. Defendant No.1 claimed to have succeeded to the estate of Ralla Singh on the basis of registered WILL dated 16.12.1972. As per defendant No.1 he is in actual physical possession of whole moveable and immovable property left by Ralla Singh, as owner.

4 In a separate written statement defendant No.2 claimed his possession over the suit land as a tenant under Ralla Singh. As per defendant No.2 the land was leased out to him by Ralla Singh during his lifetime. After his death, defendant No.1 came in possession of the house left by Ralla Singh. Defendant No.2 is in possession as a tenant under defendant No.1. It has been

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further pleaded that defendant No.1 sold half share of suit land in favour of Bhinder Singh through registered sale deed dated 10.07.1986 and remaining half share in favour of Gulzara Singh vide registered sale deed dated 14.07.1986. Defendant No.2 denied that the plaintiffs are related to Ralla Singh or was ever looked after by them.

5 Suit filed by the plaintiffs was put to trial framing following issues :-

“1. Whether deceased Ralla Singh executed his last and valid will dated 3-7-75 in favour of the plaintiffs regarding the disputed property? OPP.

2. Whether the plaintiff No.1 is the sole heir through succession to deceased Ralla Singh?OPP..

3. Whether deceased Ralla Singh executed his last and valid will dated 16-12-1972 in favour of defendant No.1? OPD.

4. Whether the suit is barred under Order 23, Rule 1 CPC?OPD..

5. Is this suit barred u/S 11 CPC?OPD.

6. Whether this suit is not maintainable as alleged?OPD.

7. Relief.”

6 Issue No.1 was decided against the plaintiffs. After analysing the evidence on record, the Court of First Instance found that the plaintiffs failed to prove genuineness of WILL Ex.P-1 dated 03.07.1975.

7 Issue No.3 has been decided against the plaintiffs and in favour of the defendants. Court found that the defendants successfully proved execution of WILL dated 16.12.1972 which is the last and natural WILL executed by Ralla Singh. The suit filed by the plaintiffs was accordingly dismissed.

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8 Unsuccessful plaintiffs preferred appeal. The Lower Appellate Court dismissed the appeal affirming findings recorded by the Court of First Instance.

9 Learned senior counsel appearing for the plaintiffs has assailed the findings recorded by the Courts below. He submits that the Courts erred in holding that WILL dated 16.12.1972 Ex.D1 propounded by defendant No.1 is a valid WILL executed by Ralla Singh. Relations between Ralla Singh and the mother of defendant No.1 were strained. Ralla Singh filed suit dated 09.04.1970 against Malkiat Kaur, mother of defendant No.1 restraining her and others from interfering in his possession over the suit land. From plaint Ex.P4, it is evident that the plaintiff i.e. Ralla Singh in the said suit alleged that Malkiat Kaur is forcing him to execute WILL in her favour. Malkit Kaur has her husband Harnek Singh and brought disrepute to the family. Suit was decreed vide Ex.P-14 dated 05.01.1971. It is highly improbable that Ralla Singh would execute a WILL in favour of son of Malkiat Kaur on 16.12.1972.

10 Mr. Sarin, Advocate submits that WILL Ex.D1 is surrounded by suspicious circumstances. Relationships have been wrongly described. Beneficiary has been wrongly mentioned as son of *hakiki bhatija* of executant. He has been described as son of Harnek Singh son of Hari Singh whereas Bhupinder Singh is son of Harnek Singh son of Kartar Singh son of Hira Singh. Mere registration of execution of WILL shall not discharge the propounder from burden of proving the due execution of WILL. The same cannot be presumed to have been validly executed. In order to hammer forth his contentions he relies upon judgments passed in ***H.Venkatachala Iyengar***



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Vs. B.N.Thimmajamma & ors., 1959 SC 443, Smt. Jaswant Kaur Vs. Smt. Amrit Kaur & ors., 1977 SC 74, S.R.Srinivasa & ors. Vs. S.Padmavathamma, 2010 (5) SCC 274, Daulat Ram & ors. Vs. Sodha & ors., 2005 (1) SCC 40, Mahabir Prasad Vs. Jage Ram & ors. AIR 1971 (SC) 742 and H.Anjanappa & ors., Vs. A.Prabhakar & ors., AIR 2025 (SC) 924.

11 *Per contra*, Mr. S.S.Swaich, Advocate for respondent No.2 has raised a preliminary objection. He submits that Bhinder Singh and Gulzara Singh the subsequent purchasers were impleaded as respondents No.1(A) and 1 (B) being subsequent vendees before the learned First Appellate Court. While filing present appeal they were not impleaded as parties to the appeal. The impugned judgment and decree passed by the Lower Appellate Court has attained finality *qua* Bhinder Singh and Gulzara Singh. The same shall operate as *res-judicata*.

12 In order to support his contentions Mr. Swaich, Advocate relies upon ratio of law laid down by Supreme Court in the case of ***Ch.Surat Singh (dead) and others vs. Manohar Lal & ors., 1971 AIR (SC) 240*** wherein the appeal was dismissed *qua* respondents not impleaded as party owing to omission on part of the appellant.

13 On merits, Mr. Swaich submits that the plaintiffs themselves have propounded WILL dated 03.07.1975. In the said WILL there is an admission of testator *qua* execution of WILL dated 16.12.1972. Thus, from the document propounded by the plaintiffs the execution of document in favour of defendant stands proved. Both the Courts below after analysing evident threadbare concluded that the WILL propounded by plaintiffs Ex.D1 was validly executed by Ralla Singh. It stands proved on record that during

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his lifetime, Ralla Singh always lived in village Tohra i.e. where the family of defendant No.1 was residing. In order to prove WILL defendants examined one of the attesting witnesses Gian Singh who appeared as DW2 and testified execution of WILL by Ralla Singh. Sub Registrar, Mangat Rai Garg appeared as DW3. He testified that WILL was read over and explained to the executant Ralla Singh. After admitting the contents of the same to be correct, Ralla Singh thumb marked the WILL. The WILL was scribed by Sadhu Ram. Since he was physically incapacitated, Local Commissioner was appointed to record his statement. Statement of Sadhu Ram was recorded. He proved that he scribed the WILL at the instance of Ralla Singh, deceased who thumb marked the same after admitting the contents thereof to be correct.

14 Mr. Siwach, Advocate further relies upon ratio of law laid down by Supreme Court in the case of ***Civil Appeal No(s).5921 of 2015 titled as Metpalli Lasum Bai (since dead) & ors. vs. Metapalli Muthaih(D) by LRs.*** to submit that there is a presumption in favour of a registered WILL. The burden to dislodge the same lies upon the party who disputes its genuineness.

15 I have heard learned counsel for the parties and have carefully gone through records of the case.

16 The apple of discord is the estate left by Ralla Singh. Plaintiffs are son and grandsons of his sister namely Ralli. Defendant No.1 is among collaterals of Ralla Singh. Plaintiffs propounded WILL dated 03.07.1975 claimed to have been executed by Ralla Singh in their favour. Both the Courts below have discarded the WILL propounded by the plaintiffs Ex.P1. Keeping in view that Ralla Singh died within 25 days of the alleged execution of WILL propounded by the plaintiffs and the fact that he was suffering from serious

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ailments, the Courts below rightly discarded the WILL propounded by the plaintiffs. Even during arguments Mr. Sarin, Sr. Advocate did not make any serious attempt to dislodge the concurrent findings recorded by the Courts below on issue No.1. Accordingly, this Court finds no reason to interfere in the findings recorded by Courts below on issue No.1 rejecting the WILL propounded by plaintiffs dated 03.07.1975. The same are affirmed.

17 The dispute relates to WILL propounded by defendants. Keeping in view nature of relationship and the fact that the plaintiffs are directly related to Ralla Singh whereas defendant No.1 is a collateral, the validity of WILL propounded by defendant No.1 in his favour assumes significance.

18 In order to prove the WILL Ex.D1 defendants rely upon recital in the WILL propounded by the plaintiffs with respect to cancellation of WILL Ex.D1. It has been contended that since in the WILL propounded by plaintiffs WILL Ex.D1 is stated to have been cancelled, valid execution of WILL Ex.D1 stands proved. Further to prove valid execution of WILL defendants have examined Gian Singh one of the attesting witnesses. Gian Singh testified as DW2. His testimony does not help the cause of the defendants. He admitted that he has entered into an agreement to purchase ½ share of the land of Ralla Singh as a *benami* purchaser. He thus being an interested party cannot be believed. The other evidence is in form of testimony of DW3 Mangat Rai Garg, Sub Registrar. Counsel for respondent No.2 also relies upon the fact of the WILL being registered.



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19 The issue was canvassed before the Supreme Court in ***Rani Purnima Debi Vs. Kumar Khagendra Narayan Deb, AIR 1962 SC 567*** , wherein the Supreme Court observed as under :-

“23. There is no doubt that 'if a will has been registered, that is a circumstance which may, having regard to the circumstances, prove its genuineness. But the mere fact that a will is registered will not by itself be sufficient to dispel all suspicion regarding it where suspicion exists, without submitting the evidence of registration to a close examination. If the evidence as to registration on a close examination reveals that the registration was made in such a manner that it was brought home to the testator that the document of which he was admitting execution was a will disposing of his property and thereafter he admitted its execution and signed it in token thereof, the registration will dispel the doubt as to the genuineness of the will. But if the evidence as to registration shows that it was done in a perfunctory manner, that the officer registering the will did not read it over to the testator or did not bring home to him that he was admitting the execution of a will or did not satisfy himself in some other way (as, for example, by seeing the testator reading the will) that the testator knew that it was a will the execution of which he was admitting, the fact that the will Was registered would not be of much value. It is not unknown that registration may take place without the executant really knowing what he was registering. Law reports are full of cases in which registered wills have not been acted upon (see' for example, Vellasaway Sarvai v. L. Sivaraman Servai, (1) Surendra Nath Lahiri v. Jnanendra Nath Lahiri (2)and Girji Datt Singh v. Gangotri Datt Singh)(3). Therefore, the mere fact of registration may not by itself be enough to dispel all suspicion that may attach to the execution and attestation of a will; though the fact that there has been registration would be an important circumstance in favour

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of the will being genuine if the evidence as to registration establishes that the testator admitted the execution of the will after knowing that it was a will the execution of which he was admitting.”

20 The question as to whether a certificate by Sub Registrar at the time of registration proves attestation came up for consideration before Supreme Court in the case of ***Benga Behera Vs. Braja Kishore Nanda, (2007) 9 SCC 728*** observing as under :-

“34. A question has also been raised as to whether a certificate by Sub-Registrar at the time of registration proves attestation. A Sub-Registrar in the matter of registration of a document acts under the provisions of the Registration Act, 1908 (1908 Act). Section 52 of the 1908 Act prescribes the duty of Registering Officer when document is presented in terms thereof. The signature of every person presenting a document for registration is required to be endorsed on every such document at the time of presentation. Section 58 prescribes the particulars to be endorsed on documents admitted to registration, such as :

(a) Signature of the person admitting the execution of the document;

(b) Any money or delivery of goods made in presence of Registering Officer in reference to the execution of the document shall be endorsed by the Registering Officer in the document presented for Registration.

Therefore this is the only duty cast on the Registering authority to endorse on the will, i.e. to endorse only the admission or execution by the person who presented the document for registration. The compliance of this provision leads to the legal presumption that the document was registered and nothing else..”



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35. *If an authority in performance of a statutory duty signs a document, he does not become an attesting witness within the meaning of Section 3 of the Transfer of Property Act and Section 63 of the Succession Act. The term 'attestation' means:*

to "attest" is to bear witness to a fact. The essential conditions of valid attestation are (i) two or more witnesses have seen the executant sign the instrument (ii) each of them has signed the instrument in presence of the executant.

36. *"Animus attestandi" is a necessary ingredient for proving the attestation. If a person puts his signature in a document only in discharge of his statutory duty, he may not be treated to be an attesting witness."*

21 Supreme Court while culling out the legal principles with regard to proof of WILL in ***Bharpur Singh Vs. Shamsher Singh (2009) 3 SCC 687*** observed as under :-

"14. The legal principles in regard to proof of a will are no longer res integra. A will must be proved having regard to the provisions contained in clause (c) of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872, in terms whereof the propounder of a will must prove its execution by examining one or more attesting witnesses. Where, however, the validity of the Will is challenged on the ground of fraud, coercion or undue influence, the burden of proof would be on the caveator. In a case where the Will is surrounded by suspicious circumstances, it would not be treated as the last testamentary disposition of the testator.

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19. *The provisions of Section 90 of the Indian Evidence Act keeping in view the nature of proof required for proving a Will*

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have no application. A Will must be proved in terms of the provisions of Section 63(c) of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872. In the event the provisions thereof cannot be complied with, the other provisions contained therein, namely, Sections 69 and 70 of the Indian Evidence Act providing for exceptions in relation thereto would be attracted. Compliance with statutory requirements for proving an ordinary document is not sufficient, as Section 68 of the Indian Evidence Act postulates that execution must be proved by at least one of the attesting witness, if an attesting witness is alive and subject to the process of the Court and capable of giving evidence. {See B. Venkatamuni vs. C.J. Ayodhya Ram Singh & ors. [(2006) 13 SCC 449]}

20. This Court in Anil Kak vs. Kumari Sharada Raje & ors. [(2008) 7 SCC 695] opined that court is required to adopt a rational approach and is furthermore required to satisfy its conscience as existence of suspicious circumstances play an important role, holding:

"52. Whereas execution of any other document can be proved by proving the writings of the document or the contents of it as also the execution thereof, in the event there exists suspicious circumstances the party seeking to obtain probate and/ or letters of administration with a copy of the Will annexed must also adduce evidence to the satisfaction of the court before it can be accepted as genuine.

53. As an order granting probate is a judgment in rem, the court must also satisfy its conscience before it passes an order.

54. It may be true that deprivation of a due share by (sic to) the natural heir by itself may not be held to be a suspicious circumstance but it is one of the factors which



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is taken into consideration by the courts before granting probate of a Will.

55. Unlike other documents, even animus attestandi is a necessary ingredient for proving the attestation."

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22. We may notice that in Jaswant Kaur vs. Amrit Kaur & ors. [(1977) 1 SCC 369] this Court pointed out that when the Will is allegedly shrouded in suspicion, its proof ceases to be a simple lis between the plaintiff and defendant. An adversarial proceeding in such cases becomes a matter of Court's conscience and propounder of the Will has to remove all suspicious circumstances to satisfy that Will was duly executed by testator wherefor cogent and convincing explanation of suspicious circumstances shrouding the making of Will must be offered.

23. Suspicious circumstances like the following may be found to be surrounded in the execution of the Will:

- i. The signature of the testator may be very shaky and doubtful or not appear to be his usual signature.*
- ii. The condition of the testator's mind may be very feeble and debilitated at the relevant time.*
- iii. The disposition may be unnatural, improbable or unfair in the light of relevant circumstances like exclusion of or absence of adequate provisions for the natural heirs without any reason.*
- iv. The dispositions may not appear to be the result of the testator's free will and mind.*
- v. The propounder takes a prominent part in the execution of the Will.*
- vi. The testator used to sign blank papers.*
- vii. The Will did not see the light of the day for long.*
- viii. Incorrect recitals of essential facts.*



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24. The circumstances narrated hereinbefore are not exhaustive. Subject to offer of reasonable explanation, existence thereof must be taken into consideration for the purpose of arriving at a finding as to whether the execution of the Will had duly been proved or not. It may be true that the Will was a registered one, but the same by itself would not mean that the statutory requirements of proving the Will need not be complied with."

22 The issue with respect to presumption attached to the registered WILL and the onus to prove the same was dealt by Supreme Court in the case of ***Moturu Nalini Kanth Vs. Gainedi Kaliprasad (2024) 16 SCC 78*** observing as under :-

20. Trite to state, mere registration of a Will does not attach to it a stamp of validity and it must still be proved in terms of the above legal mandate. In Janki Narayan Bhoir vs. Narayan Namdeo Kadam 1, this Court held that the requirements in clauses (a), (b) and (c) of Section 63 of the Succession Act have to be complied with to prove a Will and the most important point is that the Will has to be attested by two or more witnesses and each of these witnesses must have seen the testator sign or affix his mark to the Will or must have seen some other person sign the Will in the presence of and by the direction of the testator or must have received from the testator a personal acknowledgment of his signature or mark or of the signature or mark of such other person and each of the witnesses has to sign the Will in the presence of the testator. It was further held that, a person propounding a Will has got to prove that it was duly and validly executed and that cannot be done by simply proving that the signature on (2003) 2 SCC 91 the Will was that of the testator, as the propounder must also prove that the attestations were

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made properly, as required by Section 63(c) of the Succession Act. These principles were affirmed in Lalitaben Jayantilal Popat vs. Pragnaben Jamnadas Kataria (2008) 15 SCC 365.

21. More recently, in Ramesh Verma (Dead) through LRs. vs. Lajesh Saxena (Dead) by LRs. and another³, this Court observed that a Will, like any other document, is to be proved in terms of the provisions of the Evidence Act. It was held that the propounder of the Will is called upon to show by satisfactory evidence that the Will was signed by the testator, that the testator at the relevant time was in a sound and disposing state of mind, that he understood the nature and effect of the disposition and put his signature to the document of his own free will and the document shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution. It was noted that this is the mandate of Section 68 of the Evidence Act and the position would remain the same even when the opposite party does not deny the execution of the Will.”

23 In Dhani Ram (died) through Lrs. & ors. Vs. Shiv Singh, 2023 SCC OnLine SC 1263 Supreme Court relied upon ratio of law laid down in **Rani Purnima Debi’s case (Supra)** to observe as under :-

“21. It is well settled that mere registration would not sanctify a document by attaching to it an irrebuttable presumption of genuineness. The observations of this Court in Rani Purnima Debi and another vs. Kumar Khagendra Narayan Deb and another 1, which were referred to by the Himachal Pradesh High Court, are of guidance in this regard and are worthy of extraction. These observations read as under:

“There is no doubt that if a Will has been registered, that is a circumstance which may, having regard to the

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circumstances, prove its genuineness. But the mere fact that a Will is registered will not by itself be sufficient to dispel all suspicion regarding it where suspicion exists, without submitting the evidence of registration to a close examination. If the evidence as to registration on a close examination reveals that the registration was made in such a manner that it was brought home to the testator that the document of which he was admitting execution was a Will disposing of his property and thereafter he admitted its execution and signed it in token thereof, the registration will dispel the doubt as to the genuineness of the Will. But if the evidence as to registration shows that it was done in a perfunctory manner, that the officer registering the Will did not read it over to the testator or did not bring home to him that he was admitting the execution of a Will or did not satisfy himself in some other way (as, for example, by seeing the testator reading the Will) that the testator knew that it was a Will the execution of which he was admitting, the fact that the Will was registered would not be of much value. It is not unknown that registration may take place without the executant really knowing what he was registering. Law reports are full of cases in which registered Wills have not been acted upon Therefore, the mere fact of registration may not by itself be enough to dispel all suspicion that may attach to the execution and AIR 1962 SC 567 = [1962] 3 SCR 195 attestation of a Will; though the fact that there has been registration would be an important circumstance in favour of the Will being genuine if the evidence as to registration establishes that the testator admitted the execution of the Will after knowing that it was a Will the execution of which he was admitting.”

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22. We may also refer to Janki Narayan Bhoir vs. Narayan Namdeo Kadam², wherein this Court held that, to prove that a Will has been executed, the requirements in clauses (a), (b) and (c) of Section 63 of the Succession Act have to be complied with. It was pointed out that the most important point is that the Will has to be attested by two or more witnesses and each of these witnesses must have seen the testator sign or affix his mark to the Will or must have seen some other person sign the Will in the presence of and by the direction of the testator or must have received from the testator a personal acknowledgment of his signature or mark or of the signature or mark of such other person and each of the witnesses has to sign the Will in the presence of the testator. It was further held that, a person propounding a Will has got to prove that the Will was duly and validly executed and that cannot be done by simply proving that the signature on the Will was that of the testator, as the propounder must also prove that the attestations were made properly, as required by Section 63(c) of the Succession Act. These observations were affirmed and (2003) 2 SCC 91 quoted with approval by this Court in its later judgment in Lalitaben Jayantilal Popat vs. Pragnaben Jamnadas Kataria and others.”

24 The issue regarding presumption of validity attached to registered WILL came up for consideration before Supreme Court in the case of ***Gurdial Singh (dead) through LR Vs. Jagir Kaur (dead) and another, 2025 SCC OnLine SC 1466***. After discussing series of precedents, the Court concluded as under :-

“13. There is no cavil when suspicious circumstances exist and have not been repelled to the satisfaction of the Court, the Court would not be justified in holding that the Will is genuine since

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the signatures have been duly proved and the Will is registered one.”

25 Applying the aforesaid parameters to the facts of the present case this Court finds even in the case of registered WILL, the propounder is required by law to satisfy the judicial conscience of the Court with regard to valid execution of WILL and is under duty to dispel suspicious circumstance, if any, surrounding the WILL. Testator Ralla Singh filed suit Ex.P4 against mother of defendant No.1 alleging pressure upon him to execute WILL in her favour. He accused her of having brought bad name to the village. The attesting witness himself entered into an agreement to sell to purchase ½ share as a *benami* purchaser. Relationship with the beneficiary has been wrongly described in the WILL. These all circumstances are unnatural which the propounder i.e. defendant No.1 failed to dispel. Mere registration of WILL cannot be an answer to the same.

26 In view thereof, this Court finds that the findings recorded by the Courts below on issue No.3 cannot be sustained and the same need to be reversed.

27 Mr. S.S.Swaich, Advocate has taken preliminary objection with respect to omission on part of the appellant to implead Bhinder Singh and Gulzara Singh sons of Karnail Singh in the present regular second appeal. From the records, it is discernible that both Bhinder Singh and Gulzara Singh sons of Karnail Singh are transferees *pendente lite* having purchased suit land by way of of sale deeds dated 10.07.1986 and 14.07.1986 during the pendency of the suit. Both of them were impleaded as respondents No.1(A) and

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respondent No.1(B) by the Lower Appellate Court vide order dated 19.10.1988. Concededly they were not impleaded in the present regular second appeal. The present appeal was admitted on 15.07.1994. Karnail Singh, respondent No.2 died on 11.09.2020. Both Bhinder Singh and Gulzara Singh were ordered to be impleaded as respondents No.2(ii) and 2 (iv) vide order dated 09.08.2023 passed by this Court in CM-8665-C-2023. Even today Mr. Swaich, Advocate has appeared on behalf of Bhinder Singh and Gulzara Singh though in their capacity as LR's of Karnail Singh. An application i.e. **CM-6492-C-2025** has been filed by counsel for the appellants for mentioning the names of Bhinder Singh and Gulzara Singh in memo of parties. The application has been opposed as a belated one.

28 Both Bhinder Singh and Gulzara Singh having been impleaded as transferees *pendente lite* have right to be heard. They have been adequately represented and have been heard at the time of final arguments though in their capacity as LR's. of Karnail Singh. They are present before the Court though in the different capacity. In view of the fact that both Bhinder Singh and Gulzara Singh have contested the appeal, this Court finds that the objection raised by Mr. Siwach, Advocate cannot be accepted.

29 Similar question arose before Supreme Court in the case of ***Mahabir Prasad Vs. Jage Ram & ors., AIR 1971 (SC) 742*** wherein Supreme Court observed as under :-

“6. Even on the alternative ground that Mahabir Prasad being one of the heirs of Saroj, Devi there can be no abatement merely because no formal application for showing Mahabir Prasad as an heir and legal representative of Saroj Devi was made. Where in a proceeding a party dies and one of the legal representatives



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is already on the record in another capacity, it is only necessary that he should be described by an appropriate application made in that behalf that he 'is also on the record, as an heir and legal representative. Even if there are other heirs and legal representatives and no application for impleading them is made within the period of limitation prescribed by the Limitation Act the proceeding Will not abate. On that ground also the order passed by the High Court cannot be, sustained."

30 Keeping in view that Bhinder Singh and Gulzara Singh are already on record, this Court finds that no order needs to be passed on **CM-6492-C-2025**.

31 As a consequence of the above, this Court finds that the present appeal deserves to be accepted. Plaintiffs being son and grandsons of Ralli, sister of Ralla Singh are held entitled to succeed to the estate left by Ralla Singh. Both the WILLS propounded by rival parties Ex.P1 and Ex.D1 are found to be invalid and surrounded by suspicious circumstances. Accordingly, the present appeal is allowed and accepted.

32 Pending miscellaneous application, if any, also stands disposed off.

13.05.2026
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No