

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

RSA-1592-2023 (O&M)
Date of decision: 21.04.2026**Sumitar Kaur (since deceased) through her LR's**

. . . . Appellant

Vs.**Jarnail Singh (since deceased) through LR's and others**

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.Navmohit Singh, Advocate, for the appellant.

DEEPAK GUPTA, J. (ORAL)

The present Regular Second Appeal has been filed by one of the defendants laying challenge to the concurrent judgments and decrees passed by both the Courts below, whereby the suit instituted by the plaintiffs—respondents seeking declaration on the basis of Will dated 10.04.1999 and consequential relief of permanent injunction has been decreed by the learned trial Court on 26.08.2016, and the said findings have been affirmed by the learned First Appellate Court vide judgment dated 18.08.2022.

2. The case, in brief, arises out of a dispute relating to the estate of deceased Sadhu Singh. The plaintiffs, being sons of the deceased, set up a Will dated 10.04.1999, asserting that the testator had bequeathed his property partly in favour of all his sons and partly exclusively in favour of the plaintiffs, taking into consideration their contribution and services rendered to him during his lifetime. On the strength of the said Will, the plaintiffs sought declaration of ownership and consequential injunction restraining the defendants from interfering in their possession.

3. The claim was contested by defendant No.2 (*Appellant herein through her LR's*), who challenged the very execution and genuineness of the Will, alleging the same to be forged and fabricated, surrounded by suspicious



circumstances, including the alleged feeble condition of the testator and absence of independent witnesses from his native village.

4. Both the Courts below, upon appreciation of the evidence led by the parties, concurrently returned a finding that the Will stood duly proved in accordance with law. The testimony of the scribe as well as the attesting witness was found to be reliable and consistent. The expert evidence led by the plaintiffs further corroborated the execution of the Will by establishing that the thumb impressions on the Will matched with the admitted thumb impressions of the testator. The Courts below also held that no suspicious circumstances had been established by the contesting defendant so as to dislodge the validity of the Will.

5. Assailing the said concurrent findings, learned counsel for the appellants has argued that the Courts below have misread the evidence on record and have failed to appreciate that the Will is surrounded by suspicious circumstances. It is contended that the testator was not in a sound state of mind and that the absence of witnesses from the native village creates doubt regarding the execution of the Will. It is further argued that the Will being unregistered and unnatural in its disposition ought to have been disbelieved.

6. Having heard learned counsel for the appellants and perused the record, this Court finds no merit in the present appeal.

7. At the outset, it is to be noticed that the scope of interference in a Regular Second Appeal is confined to substantial questions of law. The concurrent findings of fact recorded by both the Courts below cannot be interfered with unless it is shown that such findings are perverse, based on misreading of evidence or suffer from patent illegality.

8. In the present case, the Will in question has been proved in accordance with the provisions of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872. One of the attesting witnesses has stepped into the witness box and has categorically deposed regarding the execution and attestation of the Will. The scribe has also supported the case of the plaintiffs. The expert evidence led on behalf of the plaintiffs, which



remained unchallenged, further fortifies the genuineness of the thumb impressions of the testator appearing on the Will.

9. The contention regarding existence of suspicious circumstances has also been rightly rejected by the Courts below. It is well settled that mere exclusion of some natural heirs or unequal distribution of property does not by itself constitute a suspicious circumstance. Similarly, non-registration of a Will is not a circumstance to doubt its validity. No cogent evidence has been led by the appellants to show that the testator was not in a sound disposing state of mind at the time of execution of the Will. The plea taken by the defendant that the thumb impressions were obtained at the time of death has remained a bald assertion without any supporting evidence.

10. It is also significant that the expert evidence produced by the plaintiffs has gone unrebutted. The defendant did not examine any expert in rebuttal to disprove the thumb impressions on the Will. Such omission assumes importance and lends further credence to the case set up by the plaintiffs.

11. The findings recorded by both the Courts below are based upon proper appreciation of oral as well as documentary evidence and do not suffer from any perversity or illegality. Learned counsel for the appellants has failed to point out any substantial question of law arising for consideration in the present appeal.

12. In view of the foregoing discussion, this Court is of the considered opinion that no interference is warranted with the concurrent findings recorded by the Courts below.

13. Consequently, the present Regular Second Appeal is dismissed being devoid of merit. The judgments and decrees passed by both the Courts below are hereby affirmed. No order as to costs.

21.04.2026

Vivek

**(DEEPAK GUPTA)
JUDGE**

*Whether Speaking/reasoned
Whether reportable*

*Yes
No*