

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Second Appeal No. 78/2024

Mool Chand S/o Panchya

----Appellant

Versus

Jainarain S/o Panchya

----Respondent

For Appellant(s) : Mr. Jitender Kumar Pandey

For Respondent(s) :

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

25/03/2025

1. Instant Second Appeal is preferred by legal heirs of deceased-plaintiff Mool Chand aggrieved from dismissal of civil regular appeal No. 20/2019 passed by learned Additional District Judge No.2, Bandikui, District Dausa on 22.11.2023 affirming the judgment and decree dated 06.11.2019 in civil suit No. 46/2012 passed by learned Civil Judge, Bandikui, District Dausa.
2. Learned counsel for appellant while placing reliance upon judgment in case of **Joseph Antony Lazarus (D) by Lrs Vs. A.J. Francis (Civil Appeal No. 4009 of 1998) reported as AIR 2006 SC 1895** has submitted that if a son of testatrix is left at the time of execution of Will, then it creates suspicion on execution of Will. He further submitted that in the instant case, Panchya left behind 6 sons but questioned will executed was in favor of only 5 sons and there is no mention sixth son i.e. plaintiff. He also submitted that it gives rise to suspicion and both the Courts below have failed to take note of principle of law as settled by Hon'ble Supreme Court of India.

3. Having considered the submission and also grounds as raised herein by learned counsel for appellants, the ground give rise to certain substantial question of law as suggested in para 11 of memo of appeal.
4. Issue notice to respondent Nos. 1 to 5.
5. Additional set be issued by registered speed post.
6. Service upon respondent No. 6 is dispensed with at the request of learned counsel for appellant.
7. List this matter on 06.05.2025.

(ASHOK KUMAR JAIN),J