



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

(i) **Fateh Jang Singh Chahal** **RSA No.815 of 2019 (O&M)**

. . . . Appellant

VS

Varinder Kaur Mann and others

. . . . Respondents

*** * * ***

(ii) **Smt. Naresh Sandhu and others**

RSA No.2351-2019 (O&M)

. . . . Appellants

VS

Varinder Kaur Mann and others

. . . . Respondents

*** * * ***

(iii) **Sonu Mann**

RSA No.415 of 2025 (O&M)

. . . . Appellant

VS

Fateh Jang Singh Chahal and others

. . . . Respondents

*** * * ***

(iv) **Fateh Jang Singh Chahal**

RSA No.3416 of 2023 (O&M)

. . . . Appellant

VS

Varinder Kaur Mann and another

. . . . Respondents

*** * * ***

Reserved on: December 19, 2025

Pronounced on: January 14, 2026

Pronounced Full/Partly :Fully

*** * * ***

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

**Argued By:- Mr. Sanjiv Gupta, Sr. Advocate, with
Mr. Anuj Gupta, Advocate**

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[for Naresh Sandhu and Daljinder Kaur Boparai]
appellant Nos.1 & 2 (in RSA-2351-2019),
respondent Nos.1 & 2 (in RSA-815-2019) and
respondent Nos.2 & 3 (in RSA-415-2025).

Mr. Kulvir Narwal and Mr. B.S. Chahal, Advocates
[for Indira Gill]
appellant No.3 (in RSA-2351-2019),
respondent No.4 (in RSA-415-2025) and
respondent No.3 (in RSA-815-2019).

Ms. Promila Nain, Sr. Advocate, with
Mr. Abhishek Rawal, Advocate
[for Sonu Mann]
the appellant (in RSA-415-2025),
respondent No.2 (in RSA-3416-2023),
respondent No.3 (in RSA-2351-2019) and
respondent No.4 (in RSA-815-2019).

Mr. G.S. Bhatia and Mr. Manoj K. Sharma, Advocates,
[for Fateh Jang Singh Chahal]
appellant (in RSA-815-2019 and RSA-3416-2023),
respondent No.1 (in RSA-415-2025) and
respondent No.2 (in RSA-2351-2019).

Mr. Kabir Sarin, Advocate and
Mr. R.D. Gupta, Advocate
[for Varinder Kaur Mann]
respondent No.1 (in RSAs-815-2019, RSA-2351-2019 and
RSA-3416-2023) and respondent No.5 (in RSA-415-2025).

DEEPAK GUPTA, J.

The present judgment disposes of four Regular Second Appeals, the details whereof are set out herein below.

2.1 **RSA No. 2351 of 2019 & RSA No. 815 of 2019** arise out of Civil Suit No. 2718/1523 of 2013 titled "*Varinder Kaur Mann vs. Fateh Jung Singh Chahal*

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and others”, which was decreed by the Court of Ld. Civil Judge (Junior Division), Chandigarh on 19.02.2016. Two separate appeals, namely Civil Appeal No. 145 of 2016, and Civil Appeal No. 157 of 2016, were preferred by different defendants. Both appeals were dismissed vide common judgment dated 21.08.2018 rendered by the learned Additional District Judge, Chandigarh. Aggrieved thereby, the defendants have filed (i) RSA No. 2351 of 2019 titled “*Naresh Sandhu and others vs. Varinder Kaur Mann and others*” and (ii) RSA No. 815 of 2019 titled “*Fateh Jung Singh Chahal vs. Varinder Kaur Mann and others*”.

2.2 **RSA No. 3416 of 2023** titled “*Fateh Jung Singh Chahal vs. Varinder Kaur Mann and another*” arises from Civil Suit No. 3893 of 2012/2013 titled “*Fateh Jung Singh Chahal vs. Varinder Kaur Mann and another*”, which was dismissed by the Court of Ld. Civil Judge (Junior Division), Chandigarh vide judgment and decree dated 29.03.2017. The appeal preferred there against, i.e., Civil Appeal No. 229 of 2017 by plaintiff of the case Fateh Jung Singh Chahal was dismissed on 22.08.2023 by the learned Additional District Judge, Chandigarh. The present Regular Second Appeal has, thus, been filed against concurrent findings of fact.

2.3 **RSA No. 415 of 2025** - Yet another suit, namely Civil Suit No. 1475 of 2013 titled “*Sonu Mann vs. Fateh Jung Singh Chahal and others*”, was instituted before the Court of Additional Civil Judge (Junior Division), Jagraon, which came to be dismissed on 27.09.2022. The appeal preferred by the plaintiff of the case Sonu Mann, i.e., Civil Appeal No. 13588 of 2022 was dismissed by the learned Additional District Judge, Ludhiana on 29.11.2024. Aggrieved by the concurrent findings, the plaintiff has preferred present RSA No. 415 of 2025 titled “*Sonu Mann vs. Fateh Jung Singh Chahal and others*”.

3. The dispute in all the aforesaid appeals arises inter se amongst real siblings — the children of late Sardar Daljeet Singh Chahal, Advocate of this Court, who expired on 17.10.2006. He was survived by one son, namely, *Fateh Jung Singh Chahal*, and five daughters, namely *Naresh Sandhu, Daljinder Kaur Boparai,*

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Indira Gill, Varinder Kaur Mann and Sonu Mann, who constitute his natural Class-I legal heirs under the Hindu Succession Act, 1956, his wife having pre-deceased him in the year 1992. All the children were married by late Sardar Daljeet Singh Chahal during his life time.

4. The core controversy in all the suits and appeals centres around the validity and genuineness of an unregistered holographic Will dated 01.08.1994. The document comprises twenty handwritten pages accompanied by a site plan, and purports to bear the signatures of two attesting witnesses, namely *Ms. Ravinder Kaur Nihal Singh Wala, Advocate*, and *Ms. Harpreet Kaur Dhillon, Advocate*.

5. Before advertng to the pleadings of the parties, the evidence led in the respective suits, the issues framed, and the findings returned by the Courts below, it would be appropriate to reproduce the aforesaid Will, which reads as under:—

“WILL

I, DALJIT SINGH CHAHAL, Advocate son of late Sardar Sahib Sardar Jhanda Singh Advocate resident of Bungalow No.41 Sector No. 4 Chandigarh aged about 70 years hereby revoke all my previous Wills and codicils and declare this to be my last Will and testament.

I have with my own earnings from the profession and without the assistance of any ancestral property purchased the site plot No.37 Street G Sector No.4 Chandigarh measuring 2533 square yards (5 Kanal and 1.3 Marlas) for a sum of Rs.12132/- (Rs. Twelve thousand one hundred and thirty two only) from the Governor of Punjab vide sale deed dated the 21st day of September 1956 which was allotted to me vide Memo No. 55101 dated 11.11.1954 No.3/RP/1033 dated Chandigarh Capital the 16-5-1952 and its possession was handed over to me on 17-10-1955 and I submitted plan for construction of Permanent Residential Building on Plot No.37 Street G Sector-No. 4 Chandigarh which was sanctioned by the Chief Administrator Chandigarh (C) vide Memo No.53343/RP/1033-A dated

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27-10-1955 and constructed the bungalow (previous No.2-G and present No. 41) on plot No.37 street G sector No.4 Chandigarh with my own earnings from the profession without the assistance of any ancestral property and with a loan of Rs. 17,000/- (Rs. Seventeen thousand only) under the High Income Group Housing Scheme (HIGH-C/39) advanced to me on 13-1-1956 regarding which Security-cum-Mortgage deed was executed on 17-8-1957 and registered on 23-8-1957 which loan along with interest was returned by me with my earnings from the profession. The building on plot No.37 Street G Sector No. 4 Chandigarh was completed and permission to occupy it was granted by the Administrator Capital Project Chandigarh (c) vide Memo No.22859/RP-1033-A dated 2/5 April 1956 subject to removal of a few defects which were removed within the time granted and finally permission of the occupation and use of the building on Plot No.37 Street G Sector No. 4 Chandigarh which at that time was numbered as Bungalow No.2-G Sector-4 Chandigarh and was later re-numbered as Bungalow No. 41 Sector No. 4 Chandigarh was granted by the Estate Officer exercising the powers of the Chief Administrator Capital Project Chandigarh vide Memorandum No. 11577/RP/1033-A dated 10-8-1965.

My wife Sardarni Balbir Kaur has died on 27-2-1992. I have five daughters i.e., Naresh, Daljinder Kaur, Indra, Virinder Kaur, Sonu Advocate and one son Fateh Jang Singh Chahal advocate Bungalow No. 41 Sector No. 4 Chandigarh.

I have performed the marriages of all my five daughters who are now Mrs. Naresh Sandhu, Mrs. Daljinder Kaur Boparai, Mrs. Indra Gill, Mrs. Virinder Kaur Mann and Mrs. Sonu Mann advocate with great pomp and show and have spent huge amounts on their marriages and have given them substantial jewellery, clothes, furniture and other customary presents and they are happily married in very rich and well to do families.

I also own Joint Hindu Family property (Co-parcenary property) in the shape of land situated at Agwar Gujran Jagraon District Ludhiana and at village Ghalib Kalan Tehsil Jagraon District Ludhiana in which my son Fateh Jang Singh Chahal advocate Bungalow 41 Sector-4 Chandigarh acquired interest to the extent of half share by birth. I bequeath my half share in the joint Hindu Family property (Co-parcenary property) in the shape of land situated at Agwar Gujran

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Jagraon District Ludhiana and at village Ghalib Kalan Tehsil Jagraon District Ludhiana to my son Fateh Jang Singh Chahal advocate Bungalow No. 41 Sector No. 4 Chandigarh.

Litigation regarding some Joint Hindu Family property (Co-parcenary property) in the shape of land situated at Agwar Gujran Tehsil Jagraon District Ludhiana and at village Ghalib Kalan Tehsil Jagraon District Ludhiana is going on between myself and my son Fateh Jang Singh Chahal advocate on one side and my brothers and sisters on the other side as my brothers and sisters have tried to usurp the land of my son Sardar Fateh Jang Singh Chahal, Advocate Bungalow No. 41, Sector No. 4 Chandigarh on the basis of a collusive decree to which my son Sardar Fateh Jang Singh Chahal Advocate Bungalow No. 41 Sector No.4 Chandigarh was not a party.

Keeping in view the dissensions in the family and with a view to avoid disputes and litigation among my heirs regarding my house Bungalow No.41 Sector No. 4 Chandigarh which is my self-acquired and separate property and of which I am the sole and absolute owner and with the object of assuring that my only son Sardar Fateh Jang Singh Chahal Advocate Bungalow No.41 Sector No.4 Chandigarh and his descendants whether natural or adopted may continue to live in style to which they are entitled in view of the very high status of the family and with the object of assuring the best education, performance of marriage and supplementing the income of the descendants of my son so that they may maintain the high standard of living, I, DALJIT SINGH CHAHAL Advocate Bungalow No.41 Sector No. 4 Chandigarh while in possession of full senses and being of sound disposing mind, of my own free will and without any coercion hereby make a Will and hereby create a trust of my house Bungalow No.41 Sector No. 4 Chandigarh along with the plot No.37 Sector No. 4 Chandigarh measuring 2,533 square yards (5 Kanals 1.3 Marlas) on which it is constructed including the garage, the three servant quarters with the attached bath room and water closet the appurtenant court yards, lawns and open spaces, all my bank accounts, UTI certificates, UTI monthly income funds, Public Provident Fund, Post Office Savings Bank account, National Savings Certificates which trust will be known as "DALJIT SINGH CHAHAL Advocate Private Trust Chandigarh" (hereinafter referred to as "the

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Trust") and all the amounts of the accounts mentioned above standing in my name will constitute "the Trust Fund" and will be deposited in the name of the Trust. I appoint my two youngest daughters, Mrs. Virinder Kaur Mann wife of Colonel PPS Mann resident of Bungalow No. 41 Sector No.4 Chandigarh and Mrs. Sonu Mann advocate wife of Binny Mann resident of village Tappa Khara District Faridkot as Trustees of the Trust and hereby bequeath at my demise my house Bungalow No. 41 Sector No.4 Chandigarh (hereinafter referred to as "the Trust Property") and all my bank accounts UTI certificates, UTI monthly income funds, Public Provident Fund, Post Office Savings Bank account, National Savings Certificates and the amount of compensation to be received from the Ludhiana Improvement Trust Ludhiana for the acquired land (hereinafter referred to as "the Trust Fund) to the Trustees for the benefit of my son Sardar Fateh Jang Singh Chahal Advocate Bungalow No. 41 Sector No.4 Chandigarh and his and his descendants whether natural or adopted who will be the beneficiaries of the Trust.

As my daughter-in-law Kanwal Inder Kaur Chahal wife of Sardar Fateh Jang Singh Chahal Advocate Bungalow No. 41 Sector No. 4 Chandigarh has been most disrespectful and disobedient so I specifically declare that Kanwal Inder Kaur Chahal will under no circumstances be the beneficiary of the Trust though she will be entitled to reside in a part of the Trust Property.

As my son Sardar Fateh Jang Singh Chahal Advocate Bungalow No. 41 Sector No.4 Chandigarh will succeed to the whole joint Hindu Family property (coparcenary property) in the shape of land situated at Agwar Gujran Jagraon District Ludhiana and at village Ghalib Kalan Tehsil Jagraon District Ludhiana from which he will be deriving considerable income and will also be deriving income by way of interest on the substantial amount deposited in his name so the Trustees will pay to him nominal amount of Rs 1000/- (Rs. One thousand only) per mensem by crossed cheque drawn in favour of Sardar Fateh Jang Singh Chahal Advocate Bungalow No.41 Sector No.4 Chandigarh on the first of every month but in no case will the amount be paid in advance or in lump sum and this amount will be paid out of the income accruing from the interest on the Trust Fund.

The Trust Fund will be invested in Public Provident Fund, Unit Trust of India Certificates, Unit Trust of India monthly scheme, National Savings

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Certificates and other schemes of the Unit Trust of India or Post Office Schemes from which the Trust may receive the highest rate of interest and in which the safety of the principal amount is assured. Under no circumstances will the Trust Fund be invested in shares of companies or other speculative activities. Half amount of the annual interest accruing from the investment of the Trust Fund will be re-invested in the above-mentioned schemes giving first preference to the investment in the Public Provident Fund in which the maximum amount permissible in each financial year will be invested and the balance to be invested in the other schemes mentioned above so that the Trust Fund may keep growing and so generate more income by the accrual of the increased amount of interest.

The remaining half amount of the annual interest will be deposited in the savings account of a Bank in the name of the Trust. Out of this amount an amount of Rs 5000/- (Rs. Five thousand only) per annum will be ear-marked for the repair and maintenance of the Trust Property and if the whole or part of this amount is unspent, the unspent amount will be carried forward to the amount of Rs 5000/- (Rs. Five thousand only) to be reserved for the purpose the next financial year and so on. This amount may be invested in a Fixed Deposit in the name of the Trust for one year so that in case of any emergency for carrying out a major repair the necessary amount may be readily available by encashment of one or more Fixed Deposit Receipt. It is made clear that this annually recurring amount of Rs 5000/- (Rs Five thousand only) is meant only for carrying out the repairs and maintenance of the building of the Trust Property including the repair and painting of woodwork of doors, windows and ventilators and of steel doors, gates and fences and replacing the broken glass panes and the water and sanitary systems. This amount will not however be available for the repair and maintenance of electric fittings or electric appliances which will be the responsibility of the user thereof.

After deducting the amount of Rs.5000/- (Rs. Five thousand only) mentioned above the balance amount will be at the disposal of the Trustees for making the monthly payment of Rs 1000/- (Rs One thousand only) to Sardar Fateh Jang Singh Chahal Advocate Bungalow No.41 Sector 4 Chandigarh as a beneficiary

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of the Trust. Out of the remaining amount the Trustees will pay the income-tax, property Tax, house tax and any other tax to which the Trust Property or the Trust Fund may be liable. The Trust Property is unencumbered and the Trustees will have no authority to encumber the Trust Property under any circumstances. The Trustees will have no authority to alienate the Trust Property by way of sale, mortgage, lease or in any other way or create any charge on it for any purpose whatsoever or under any circumstances. It is clarified that the payment of the electricity bill and the water bill will be the responsibility of the user. The recurring unspent amount will be carried over to the next financial year and so on so that it will keep accumulating and this amount may also be invested in a Fixed Deposit in a Bank for a period of one year so that in an emergency one or more Fixed Deposit Receipt may be available for being readily encashed. This amount will be at the disposal of the Trustees for carrying out the objectives of the Trust such as incurring expenses on the upbringing, education and marriage of the beneficiaries which the Trustees may deem reasonable keeping in view the interests of all the beneficiaries as both the Trustees may decide. If there is difference of opinion between Mrs. Virinder Kaur Mann Trustee and Mrs. Sonu Mann Advocate Trustee, then Mrs. Virinder Kaur Mann Trustee will have the casting vote. The female beneficiaries in the presence of the male beneficiaries will cease to be beneficiaries on their marriage. If there are no male beneficiaries then the female beneficiaries will continue to be beneficiaries of the trust. If unfortunately there are no descendants either natural or adopted then the descendants of my two daughters Mrs. Virinder Kaur Mann and Mrs. Sonu Mann Advocate will be the beneficiaries of the Trust.

If a post of Trustee falls vacant then it may be filled by an adult descendant of the two Trustees Mrs. Virinder Kaur Mann and Mrs. Sonu Mann Advocate. Under no circumstances my three eldest daughters Mrs. Naresh Sandhu, Mrs. Daljinder Kaur Boparai, Mrs. Indira Gill or their descendants will be the beneficiaries of the Trust or be appointed Trustees.

I also bequeath all my household goods, crockery, crockery, furniture library, telephone, my three cars, gun, revolver, two rifles, two type-writers to my only son Sardar Fateh Jang Singh Chahal advocate Bungalow No. 41 Sector No.4

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Chandigarh who will become their sole and absolute owner only at my demise while I shall remain their owner during my life-time and will continue to enjoy their use and all the rights therein which I now have.

My daughter Virinder Kaur Mann and her two sons Aman Pal Singh Mann and Shakti Pal Singh Mann who are residing with me are looking after me and I am very pleased with their services and have great affection for them. I bequeath my colour T. V. and the receiver to them on my demise. However I will continue to be their owner during my life-time and will continue to enjoy their use and all the rights in them which I now have.

After my demise my daughter Mrs. Virinder Kaur Mann Trustee and her two sons Aman Pal Singh Mann and Shakti Pal Singh Mann will have the right of residence in the portion shown as ABCD in the attached plan of Bungalow No. 41 Sector No.4 Chandigarh (the Trust Property) which is signed by me, comprising the bed room, attached bath-room, the Indian water closet, the big verandah measuring 10' x 40', verandah having stairs, the Mamti of the stairs, the kitchen and the attached enclosed courtyard which is in their possession. They will also have the right to use the open space along the outer wall of the courtyard and the kitchen measuring about 25'-6'' x 125' shown as EFGH in the above-mentioned attached plan of my house Bungalow No. 41 Sector No. 4 Chandigarh (the Trust Property). On my demise my daughter Mrs. Virinder Kaur Mann Trustee and her two sons Aman Pal Singh Mann and Shakti Pal Singh Mann will also take possession of the suite comprising one big bed room, dressing room and the attached bathroom as CJKLMNP and the articles and furniture therein which is in my occupation and use and will have the right to use and reside in it also. My youngest daughter Mrs. Sonu Mann advocate and her son Umaid Singh also have the right to reside as a Trustee in the portion of the Trust Property in which Mrs. Virinder Kaur Mann Trustee has been given the right to reside. Mrs. Sonu Mann advocate Trustee will also have the right to use the library if she wants to practice

The will has been scribed by me and is in my own handwriting.

In witness whereof I have signed this will in the presence of the two attesting witnesses who have also signed in my presence.

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Chandigarh Dated First August 1994.

Sd/- Daljit Singh Chahal
Advocate
Testator

1. Witness :

Sd/- (Ravinder Kaur Nihalsinghwala), Advocate
House No. 708, Sector 11-B, Chandigarh 1.8.94

2. Witness :

Sd/- (Harpreet Kaur Dhillon), Advocate
House No. 50, Sector 8-A, Chandigarh”

First Suit — CS-21/2008 (Re-numbered as CS-1475 of 2013)

6.1 ***Plaintiff's Case*** : The first suit, originally filed as CS-21/2008 and later re-numbered as CS-1475 of 2013, was instituted on 23.09.2008 before the Jagraon Courts by *Ms. Varinder Kaur* and *Ms. Sonu Mann* in respect of agricultural land situated in villages Galib Kalan and Agwan Gujran, Tehsil Jagraon, District Ludhiana. The plaintiffs pleaded that the parties constituted a joint Hindu family with late Sardar Daljeet Singh Chahal as Karta, and that the suit land was ancestral coparcenary property, which had devolved upon him from his father, Shri Jhanda Singh Chahal. They claimed birth-right in the property and asserted equal coparcenary shares therein.

6.2 It was further alleged that by an unregistered Will dated 01.08.1994, the testator had illegally bequeathed the suit land exclusively in favour of Fateh Jang Singh Chahal, and on the basis thereof, mutations had been sanctioned in his favour. The plaintiffs challenged the orders dated 28.08.2004 passed by the revenue authorities sanctioning the mutations, and sought a declaration that the suit property had devolved upon all the children of the deceased by natural succession. A decree of declaration and joint possession to the extent of a $\frac{1}{3}$ composite share (i.e., 1/6th share each) was prayed for.



6.3 During pendency of the suit, Varinder Kaur Mann moved an application and was transposed as Defendant No. 5 vide order dated 13.03.2014.

7. **Stand of Defendant No. 1 — Fateh Jang Singh Chahal** : In his amended written statement, Defendant No. 1 denied that the suit land was ancestral or coparcenary property and asserted that, pursuant to judgment dated 24.09.1997 of this High Court, *Sardar Daljeet Singh Chahal* became its exclusive owner in possession. Defendant N: 1 relied upon the Will dated 01.08.1994, under which the suit property was bequeathed to him, and further pleaded that the validity of the Will had already been upheld by the Civil Court at Chandigarh on 19.02.2016 and affirmed by the First Appellate Court on 21.08.2018. He defended the mutations sanctioned in his favour as legal and valid.

8. **Stand of Defendants No. 2 to 4 — Naresh Sandhu, Davinder Kaur Boparai & Indira Gill** : Defendants No. 2 to 4 filed a joint written statement broadly supporting the stand of Defendant No. 1. They too denied the coparcenary character of the suit property and pleaded that, in view of the judgment dated 24.09.1997, the testator was the exclusive owner, who validly executed the Will dated 01.08.1994 in favour of Defendant No. 1. The impugned mutations were accordingly justified.

9. **Stand of Defendant No. 5 — Varinder Kaur Mann (Transposed Plaintiff)** : After transposition as Defendant No. 5, Varinder Kaur Mann resiled from the earlier plea of coparcenary property and adopted the defence of Defendant No. 1 and Defendants No. 2 to 4, asserting that the suit land was the exclusive property of the testator under the judgment dated 24.09.1997 and had been validly bequeathed to Fateh Jang Singh Chahal under the Will dated 01.08.1994.

10. **Findings of the Courts Below** : Upon framing issues and appreciating the evidence, the Trial Court held that, in view of judgment dated 24.09.1997 (Ex.D-1), *Sardar Daljeet Singh Chahal* was the exclusive owner in possession of the suit land and that it did not retain the character of ancestral coparcenary property.

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The Will dated 01.08.1994 was found to be legal and valid, and the mutations sanctioned on its basis were upheld. The suit was accordingly dismissed on **27.09.2022**.

11. The appeal preferred by Sonu Mann was dismissed by the First Appellate Court on 29.11.2024, affirming the concurrent findings. Aggrieved thereby, she has filed **RSA No. 415 of 2025**.

Second Suit — Civil Suit No. 2718/1523 of 2013 (Earlier Suit No. 182 of 2011)

12. The second suit, originally filed as Suit No. 182 of 2011 and later re-numbered as Civil Suit No. 2718/1523 of 2013, was instituted by *Ms. Varinder Kaur Mann* against her brother *Mr. Fateh Jang Singh Chahal* and her four sisters. The plaintiff sought a declaration that the unregistered holographic Will dated 01.08.1994 executed by late *Sardar Daljit Singh Chahal* was his last, legal and valid Will, and that the parties were entitled to the benefits thereunder, including House No. 41, Sector 4, Chandigarh, which was stated to vest in a trust created by the testator. She also prayed for a decree of permanent injunction restraining defendants No. 2 to 4 — *Naresh Sandhu, Daljinder Kaur Boparai and Indira Gill*, from interfering in her lawful possession of specified portions of the house.

13. ***Plaintiff's Case*** : According to the plaintiff, she was married in 1984 and stayed with in-laws for a few years. However, after the death of their mother in 1992, the testator requested her to shift from Bassi Pathana to Chandigarh to reside with and support him. She claimed to have lived with him in a separate portion of the house, served him along with her sons until his death, and thereafter continued in possession of the portion earlier occupied by him. As per the Will, "*Daljit Singh Chahal Advocate Private Trust, Chandigarh*" was stated to have been created, with the plaintiff and Ms. Sonu Mann as trustees, the estate vesting in the trust, and a casting vote conferred upon the plaintiff in case of disagreement between the trustees. The Will excluded defendants No. 2 to 4 and their descendants from any share in the estate.



14. ***Stand of Defendant No. 1 — Fateh Jang Singh Chahal*** : Defendant No. 1 did not dispute the execution of the Will. His defence was that under the Will, the trust assets, including House No. 41 as well as bank deposits and other financial instruments, were to benefit him and his descendants alone. He alleged that the plaintiff had, without the knowledge of co-trustee *Sonu Mann*, wrongfully withdrawn substantial trust funds for personal use, thereby disqualifying herself from continuing as trustee. He denied that the plaintiff shifted to the house to look after the testator, asserting instead that she had taken refuge there due to matrimonial discord, and that the recitals against his wife in the Will were procured at the plaintiff's instance.

15. ***Stand of Defendants No. 2 to 4 — Naresh Sandhu, Daljinder Kaur Boparai & Indira Gill*** : These Defendants filed a joint written statement disputing the genuineness and validity of the Will. They contended that the original Will had not been produced, that the document was unnatural and suspicious in depriving three daughters of inheritance, and that the alleged private trust was neither created nor acted upon. They also asserted inconsistency in earlier litigation allegedly initiated by the plaintiff and defendant No. 5 propounding another Will and claiming succession by natural inheritance.

16. ***Stand of Defendant No. 5 — Sonu Mann*** : Defendant No. 5 did not dispute execution of the Will, but denied the plaintiff's claim to a casting vote and alleged lack of transparency regarding operation of accounts and trust funds. She stated that both trustees had jointly applied for transfer of the house in 2006 pursuant to the Will, but the transfer could not be effected due to procedural defects.

17. ***Findings of the Trial Court*** : Upon framing issues and appreciating the evidence, the Trial Court held that the Will dated 01.08.1994 stood duly proved in accordance with law. It observed that the earlier litigation relied upon by the defendants did not concern the suit property. The suit was decreed on 19.02.2016, declaring the Will to be the last valid testament of the testator and recognising the

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beneficiaries' rights in respect of House No. 41 through the trust. Defendants No. 2 to 4 were restrained from interfering with the plaintiffs' possession or taking forcible possession except in due course of law.

18. **First Appeals and Present RSAs** : Two appeals, one by Defendant No. 1 and another by Defendants No. 2 to 4, were dismissed by the First Appellate Court vide common judgment dated 21.08.2018, upholding the decree of the Trial Court. Aggrieved thereby:

- Defendant No. 1 has filed **RSA No. 815 of 2019**, and
- Defendants No. 2 to 4 have filed **RSA No. 2351 of 2019**.

Third Suit — Civil Suit No. 3893 of 2013

19. The third suit, Civil Suit No. 3893 of 2013, was instituted by Fateh Jang Singh Chahal (the beneficiary under the Will) against Varinder Kaur Mann *and* Sonu Mann (the named trustees) seeking a declaration that the defendants had forfeited their right to function as trustees of the "*Daljeet Singh Chahal Advocate Private Trust, Chandigarh*", created under the holographic Will dated 01.08.1994 of late Sardar Daljeet Singh Chahal.

20.1 **Plaintiff's Case** : The plaintiff alleged that the defendants, particularly Defendant No. 1 Varinder Kaur Mann, had failed to act in accordance with the wishes, directions and conditions contained in the Will, and had misused and misappropriated trust property and funds for their personal benefit as well as for their family members, thereby rendering themselves liable to removal as trustees.

20.2 Referring to the recitals of the Will, the plaintiff pleaded that the trustees had neither paid him the monthly amount of ₹1,000 from trust income nor carried out repairs of House No. 41, Sector 4, Chandigarh; that trust funds were not invested as contemplated; and that despite repeated requests, the defendants had neither furnished information nor rendered accounts. He alleged



that no bank account had been opened in the name of the trust and that the trustees were in breach of their fiduciary duties.

20.3 The plaintiff further sought a decree of permanent/mandatory injunction restraining the defendants from representing themselves as trustees, from dealing with or alienating the trust property, or from operating or withdrawing any trust funds. He also prayed for appointment of new trustees including himself, and for rendition of accounts from 17.10.2006 (the date of the testator's death), when the trust was stated to have come into existence under the Will.

21. **Stand of Defendant No. 1 — Varinder Kaur Mann** : Defendant No. 1 raised preliminary objections regarding maintainability, valuation and multiplicity of proceedings, referring to the pendency of the Chandigarh suit. She asserted that she had made bona fide efforts to act in terms of the Will, denied having operated any trust accounts or received any trust funds, and therefore, disputed any obligation to pay ₹1,000 per month or incur repair expenses. She stated that although the Will mentioned various deposits, bonds and accounts, the originals remained with the plaintiff, and that mutation of House No. 41 on the basis of the Will could not be effected despite efforts, partly due to lack of cooperation of the co-trustee. She denied misuse of funds and sought dismissal of the suit.

22. **Stand of Defendant No. 2 — Sonu Mann** : Defendant No. 2 also challenged the maintainability of the suit and alleged absence of cause of action, controverted the allegations of misappropriation and breach, and prayed for dismissal.

23. **Findings of the Courts Below** : After framing issues and evaluating the evidence, the Trial Court held that the plaintiff had failed to prove misappropriation or usurpation of trust funds by the defendants. It further observed that although the defendants had been named as trustees under the Will, the Will did not contain any stipulation authorising removal of a trustee on the ground of alleged misuse of funds; and even assuming some financial irregularity, such allega-

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tion alone would not justify for removal from trusteeship. The Court also held that the plaintiff was not entitled to rendition of accounts from the defendants. The suit was accordingly dismissed on **29.03.2017**.

24. The appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Chandigarh on **22.08.2023**, thereby affirming the findings of the Trial Court.

Aggrieved by the concurrent findings, the plaintiff has filed **RSA No. 3416 of 2023**.

25. It is in the above background that all four Regular Second Appeals are now before this Court for joint adjudication.

26. Ld. Counsel for all parties have been heard at length and the record has been carefully perused.

27.1 On behalf of appellants (of RSA N: 2351 of 2019) – defendants - **Naresh Sandhu & Daljinder Kaur Boparai**, Mr. Sanjeev Gupta, learned Senior Advocate, has assailed both the due execution of the Will dated 01.08.1994 (Ex.P2/1) as well as the executability of the dispositions contained therein. It is submitted that the Will has not been proved in accordance with the mandate of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872. The original Will, though stated to have been produced during evidence, was never placed on the record, and the Courts below have relied only upon an exhibited copy, which, according to learned counsel, cannot substitute statutory proof of execution. Attention is invited to the fact that every page of the Will is not signed, that the attesting witnesses were junior members of the Bar, and that no reasons are forthcoming in the document to justify exclusion of three natural heirs; all of which, it is urged, constitute suspicious circumstances rendering the Will vague, uncertain and unnatural.

27.2 Learned senior counsel further contends that affidavits (Ex. D-4 and D-6) earlier furnished before the Estate Officer by Varinder Kaur Mann and Sonu



Mann appear to refer to another Will of the same date, whereas the Will now propounded contains only trust dispositions, thereby creating ambiguity as to which Will was intended to operate. The opening recital in the Will states that all prior Wills stand revoked; but, no evidence has been led as to the number or nature of such earlier Wills, which, according to counsel, further deepens the suspicion surrounding the document.

27.3 It is also urged that the plaintiff of the case, Varinder Kaur Mann, is disentitled to maintain the suit inasmuch as, in the Jagraon litigation (Ex. D-9), she herself challenged the very same Will as fraudulent; that she cannot now approbate and reprobate, and is barred by estoppel and acquiescence.

27.4 Learned senior counsel further contends that although the Will purports to create a private trust, neither the consent of the named trustees was obtained nor is the purpose or object of the trust clearly spelt out. Placing reliance on Sections 89 and 92 of the Indian Succession Act, 1925, it is urged that where a testamentary disposition is uncertain or indefinite, the same is rendered void. Reliance is placed on the decisions reported in ***AIR 1957 Bombay 218*** and ***AIR 1959 Andhra Pradesh 448***.

27.5 In order to demonstrate that the trust clauses in the present case are vague and uncertain, learned counsel points to the following circumstances:

- i. that the alleged private trust was never in fact brought into existence and no steps were taken for obtaining probate or letters of administration;
- ii. that the plaintiff herself withdrew the entire amount forming part of the alleged Trust Fund for her personal use, which withdrawal stands admitted by her;
- iii. that the purpose and object of the trust are not defined in the Will; and



- iv. that the Will does not indicate how the dispositions are intended to benefit any of the legal heirs or how the trust, if at all created, is expected to function or subserve any identifiable object.

On the strength of these submissions, it is urged that the trust declaration in the Will suffers from uncertainty and indefiniteness, and is therefore void in law.

27.6 Learned senior counsel also challenges the trust clauses by placing reliance on various provisions of the Indian Trusts Act and the Transfer of Property Act. It is urged that the trust is uncertain and indefinite; that there is conflict between the interests of trustee and beneficiary; that utilisation of assets by a trustee demonstrates adverse title, and that the scheme violates fiduciary norms contained in Sections 6, 9, 10, 14, 48 and 51 of the Trusts Act. Reference is further made to Sections 13 to 21 of the Transfer of Property Act to submit that the dispositions offend the rule against perpetuity and do not specify how vesting would operate upon exhaustion of the beneficiaries. It is finally urged that even one of the trustees has admitted having utilised movable funds for personal investment, which shows that the Will and trust were never genuinely implemented, and that the estate, therefore, deserves to be divided equally among all heirs.

27.7 Thus, in the alternative, it is argued that even assuming execution of the Will to be proved, the same is in-executable, as the private trust contemplated therein was never created or registered, no probate or letters of administration were sought, the purpose and acceptance of the trust are not clear, and the alleged trustees themselves have utilised the funds for personal benefit. It is contended that the trust has never been acted upon, and the estate must, therefore, devolve by natural succession.

28. Supporting the above submissions, Ms. Promila Nain, learned Senior Advocate appearing **for Sonu Mann**, contends that the plaintiff Varinder Mann cannot be permitted to blow hot and cold, having earlier challenged the Will in the Jagraon litigation and now asserting its validity in the Chandigarh suit. Referring to



the revenue extracts produced in the Jagraon proceedings, it is urged that the agricultural land originally devolved through lineage and bore the character of coparcenary property. Reliance is placed upon earlier litigation, where the property nucleus was allegedly treated as coparcenary, and it is submitted that the parties cannot now resile from such admissions. If the Will is found to be contrary to law, the entire estate, it is argued, must devolve equally under Sections 6 and 8 of the Hindu Succession Act, 1956.

29.1 Conversely, Mr. Kabir Sarin & Mr. R.D.Gupta, learned counsels appearing for the respondent-plaintiff **Varinder Kaur Mann**, supports the concurrent findings and submits that due execution of the Will has been proved through the testimony of one attesting witness, namely Harpreet Kaur, Advocate, and by the admission of Fateh Jang Singh Chahal regarding the handwriting of the testator. The Courts at Chandigarh as well as Jagraon have concurrently upheld the genuineness of the Will. It is urged that the Will is a holographic document, and that the principles applicable to such instruments stand satisfied.

29.2 By referring to Sections 11, 23 and 31 of the Trusts Act, learned counsel submits that the creation, object and administration of the trust are clearly defined and leave no ambiguity. The differing stand taken in the Jagraon suit is explained on the ground that the dispute there pertained only to the nature of the agricultural land and not to the validity of the Will as a whole. It is further submitted that defendant Fateh Jang Singh Chahal himself admitted execution of the Will and only alleged misuse of funds, that defendants 2 to 4 Naresh Sandhu, Daljinder Kaur Boparai and Indira Gill alone denied execution of the Will. It is pointed out that no suggestion was put in cross-examination disputing the handwriting or signature of the testator. There has been no disclaimer by either the trustees or the beneficiary, and therefore, Sections 9 and 10 of the Trusts Act are said to apply. Placing reliance on the decision of the Hon'ble Supreme Court in **Kanta Yadav v. Om Prakash, AIR 2019 (SC) 5556**, learned counsel submits that probate is not compulsory in respect of Wills operative in Punjab, Haryana and Chandigarh.



30. Mr. Kulvir Narwal, learned counsel for Smt. Indira Gill, adopts the submissions advanced on behalf of the appellants Smt. Naresh Sandhu & Smt. Daljinder Kaur Boparai.

31. **Substantial Questions of Law** : Having regard to the pleadings, findings of the Courts below, and arguments addressed, the following substantial questions of law arise for consideration:

- Whether the concurrent findings of the Courts below, holding that the Will stands duly proved, suffer from perversity or misreading of evidence warranting interference in second appeal?
- Whether the concurrent findings of the Courts below, holding that the land of two villages in Tehsil Jagraon was exclusive ownership of testator and that the same stands validly bequeathed to son Fateh Jang Singh Chahal suffer & upholding the sanctioning of mutation on that basis, suffer from perversity or misreading of evidence warranting interference in second appeal?
- Whether the Courts below were justified in construing the holographic Will dated 01.08.1994 as creating a valid testamentary trust in respect of House No. 41, Sector 4, Chandigarh and the financial instruments forming the Trust Fund, and in holding that the legal ownership vests in the trustees while the beneficial interest stands confined to the son and his descendants?
- Whether the exclusion of three daughters and their descendants from the benefit and trusteeship of the trust, as expressly declared in the Will, constitutes an unnatural or suspicious circumstance undermining its validity, or whether such exclusion represents a conscious and deliberate testamentary choice requiring effect to be given thereto?



- Whether suit was not maintainable in view of bar under Section 213 of the Indian Succession Act, 1925, in the absence of obtaining probate or letter of administration?
- Whether the concurrent findings of the Courts below regarding allegations of misuse of trust funds and misappropriation by the trustees were not established, suffer from perversity or misreading of evidence warranting interference in second appeal?
- Whether the plea of “trust not acted upon”, alleged non-opening of trust accounts, or alleged non-investment of Trust Fund in the manner contemplated by the Will, constitute grounds to invalidate the trust scheme or to displace the trustees named by the testator, particularly in the absence of proof of misappropriation or defalcation of trust property?
- Whether, upon a correct construction of the Will, the beneficiary is entitled to seek removal of the trustees named therein and claim rendition of accounts as of right, or whether the testamentary scheme indicates that trusteeship was intended to remain with the two youngest daughters subject to administrative regulation rather than replacement?

Court Analysis and Findings :

32. ***Scope of Interference*** : At the outset, it must be noticed that all the present Regular Second Appeals arise out of concurrent findings of fact recorded by the Trial Courts and affirmed by the First Appellate Courts. Interference under Section 100 CPC is permissible only where perversity, misreading of evidence, or a substantial question of law is demonstrated. Bearing this limited jurisdiction in mind, the issues arising for consideration are examined hereinafter.

33. ***Proof and Validity of the Will dated 01.08.1994***: It is the contention of the appellants that it is mandatory to prove the lawful execution of the Will in accordance with Section 68 of the Indian Evidence Act, 1872 and Section 63 of the

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Indian Succession Act, 1925. To support this contention, learned counsel refers to *“Dhaniram Vs. Shiv Singh”*, 2023 AIR (Supreme Court) 4787; *“Meena Pradhan and others Vs. Kamla Pradhan and others”* 2023 AIR (Supreme Court) 4680 and *“Janki Narayan Bhoir Vs. Narayan Namdeo Kadam”* 2003 AIR (Supreme Court) 761. It is urged by learned counsel that apart from the requirements of the above-said provisions of law, it is necessary to be proved that the testator signed the Will out of his own free will; that at the time of execution he had a sound state of mind; and that he was aware of the nature and effect thereof; and that the Will was not executed under any suspicious circumstances. For the same reasoning reliance is placed on *“V Kalyanaswamy Vs. L Bakhtawar Ratlam”* 2020 (3) Law Herald (SC) 1742; *“Derek AC Lobo and others vs. Ulric MALabo (dead) through Lrs and others”* (2) RCR (Civil) 873 (2024).

34. There can be no dispute to the above legal position. However, in the present case, as far as the proof of execution of the Will dated 01.08.1994 is concerned, the Courts below, in the civil suit No.2718/1523 of 2013 & the consequent appeals, have concurrently held that the Will has been duly proved in accordance with law, on the basis of the statement of an attesting witness, the admission of the children regarding the handwriting of the testator, and the production of the original Will during evidence.

35. The appellants have not been able to point out any circumstance that casts doubt on the credibility of the attesting witness namely Harpreet Kaur (PW2), or on the mental capacity of the testator. The Will to be in the Handwriting of the testator is established by the testimony of son DW2 Fateh Jang Singh Chahal. The Will is a detailed handwritten document which sets out the facts, distributions and reasons in a clear and orderly manner, and shows that it was prepared consciously and with deliberation.



36. The alleged suspicious circumstances, though attractively presented, do not withstand judicial scrutiny, when examined in the light of the evidence on record and the settled principles governing proof of holographic Wills.

37. At the outset, the challenge based on non-compliance with Section 63 of the Indian Succession Act read with Section 68 of the India Evidence Act, 1872 is misconceived. The Will in question is a holographic Will, admittedly written entirely in the handwriting of the testator. As noted above, one of the attesting witnesses was examined and supported the execution and attestation of the Will. In addition thereto, the handwriting of the testator was expressly admitted by the son. There is no cogent rebuttal to this evidence. It is well settled that where a Will is wholly in the handwriting of the testator, the Court is entitled to place greater reliance on internal consistency, admitted handwriting, and surrounding circumstances, and the evidentiary burden regarding attestation stands substantially lightened once an attesting witness is examined and execution is proved.

38.1 The legal position with regard to holographic Wills stands authoritatively settled by the Hon'ble Supreme Court in ***Mrs. Joyce Primrose Prestor (Nee Vas) v. Miss Vera Marie Vas and others, (1996) 9 SCC 324***. In the said decision, while ultimately upholding the rejection of the Will on facts, the Supreme Court lucidly expounded the governing principles applicable to holographic Wills. The Hon'ble Supreme Court held that a holographic Will, being wholly in the handwriting of the testator, ordinarily carries a greater presumption of genuineness, for the reason that the mental process of the testator is more clearly reflected in such a document than in a typed or scribed Will. The Court observed that the law attaches such presumption not mechanically, but because the act of personally writing out the Will furnishes strong intrinsic evidence of conscious and deliberate testamentary intent.

38.2 Significantly, the Supreme Court clarified that suspicious circumstances must be real, substantial and founded on evidence, and not on conjec-



tures such as age, illness, or the mere fact of unequal disposition. The Court deprecated an approach based on speculative reasoning, observing that suspicion cannot be substituted for proof, and that a Will cannot be discarded merely because a different arrangement might appear more natural to others.

38.3 In support of this principle, Hon'ble Supreme Court relied upon the judgment of the Calcutta High Court in ***Ajit Chandra Majumdar v. Akhil Chander Mojumder, AIR 1960 Calcutta 551***, wherein it was held that where a testator copies out a draft Will in his own handwriting, such copying itself amounts to approval of the testamentary scheme. The Court reasoned that a person does not copy a draft merely as an exercise in handwriting; if the contents were not approved, the testator would either alter the draft or abandon it altogether. Thus, a holographic reproduction of a draft constitutes intrinsic proof of assent and intention.

38.4 Hon'ble Supreme Court further reaffirmed the principles laid down by the Constitution Bench in ***Shashi Kumar Banerjee and others v. Subodh Kumar Banerjee (deceased) thr LRs, AIR 1964 SC 529***, wherein it was held that where a Will is holographic and the intrinsic recitals therein are consistent with surrounding circumstances, the Court should attach considerable weight to the document itself. The Constitution Bench cautioned that in such cases, oral testimony of attesting witnesses ought not to be discarded lightly, particularly when there are no material suspicious circumstances and the Will bears internal coherence.

39. Applying the aforesaid principles to the present case, the approach adopted by the Courts below cannot be faulted. The Will dated 01.08.1994 is admittedly a holographic Will, running into several pages, containing a detailed narrative of the testator's property, family circumstances, motivations, and a carefully structured dispositive scheme. The handwriting of the testator has been admitted by the son. One of the attesting witnesses has been examined and has supported execution and attestation. No suggestion of interpolation, fabrication or tampering was put to the witness. The mere fact that the attesting witnesses were junior



members of the Bar, or that every page does not bear a signature, does not constitute a suspicious circumstance in law.

40. Equally, the unequal distribution or exclusion of some heirs, however harsh it may appear, cannot by itself render a holographic Will unnatural. As reiterated in *Joyce Primrose Prestor (supra)*, testamentary freedom permits a testator to depart from equal distribution, and Courts are not to substitute their own notions of fairness for the clearly expressed intention of the testator.

41. Thus, the decision in *Mrs. Joyce Primrose Prestor (Nee Vas)* reinforces the principle that a holographic Will, once proved in accordance with law and found to be internally consistent and rational, commands a strong presumption of genuineness. In the absence of cogent and compelling suspicious circumstances, such a Will cannot be discarded on speculative or hyper-technical grounds.

42. The objection that the original Will, though produced during evidence, was not formally placed on the record, is equally devoid of substance. The evidence unmistakably shows that the original Will was produced before the Court, seen and compared during the testimony of witnesses, and its handwriting and execution were never disputed in cross-examination. Mere non-marking of the original as an exhibit, when its existence, production and genuineness are otherwise proved, is at best a procedural irregularity and not a circumstance vitiating proof of execution. The law does not elevate form over substance, particularly in testamentary matters.

43. The contention that every page of the Will is not signed, also does not advance the appellants' case. There is no statutory requirement that each page of a Will must bear the signature of the testator or attesting witnesses. What the law mandates is that the Will must be signed by the testator and attested in the manner prescribed. In a holographic Will, continuity of handwriting, internal coherence, and absence of interpolation are of far greater significance than signatures



on each page. No suggestion of interpolation, tampering or fabrication was put to any witness.

44. Equally unpersuasive is the argument that the attesting witnesses were junior members of the Bar. The law does not recognise seniority, professional status, or social standing of attesting witnesses as a factor affecting the validity of attestation. Once attestation in terms of Section 63(c) is proved, the personal stature of the witnesses is wholly irrelevant. The submission borders on speculation rather than legal infirmity.

45. The plea that exclusion of three daughters renders the Will unnatural also cannot be accepted as a suspicious circumstance per se. A testator is legally entitled to distribute his estate in a manner he considers appropriate. Unequal distribution or exclusion of some heirs, when clearly expressed and consistently reflected in the Will, does not constitute a suspicious circumstance. In the present case, the Will is a long, reasoned document setting out the testator's perception of family dynamics and his estate-planning objectives. The exclusion is not accidental or unexplained; rather, it is part of a conscious and structured scheme.

46. As regards the reliance placed on affidavits Ex. D-4 and D-6 submitted before the Estate Officer by Varinder Kaur Mann & Sonu Mann are concerned, the same do not create any ambiguity about the existence of multiple Wills. Those affidavits merely sought mutation or administrative recognition of rights flowing from the testamentary disposition. They do not prove the existence of another Will, nor was any such Will produced or proved by the appellants. A vague reference to a Will of the same date, without production of any competing testamentary instrument, cannot dislodge a duly proved Will. The burden to establish the existence of another Will lay squarely on the appellants, which they have failed to discharge.

47. The opening recital revoking prior Wills also does not create suspicion. On the contrary, such a clause is a standard testamentary precaution, intended to avoid future disputes. The law does not require the propounder to prove



how many prior Wills existed or to produce revoked Wills. Once the last Will is proved, earlier Wills, if any, stand automatically superseded.

48. ***Estoppel, Approbate–Reprobate and Prior Pleadings*** : The contention that Varinder Kaur Mann is disentitled to maintain the suit seeking validity of the Will on the ground that she had earlier challenged the Will in the Jagraon litigation (Ex. D-9), and is therefore, barred by the principles of *approbate and reprobate*, estoppel or acquiescence, does not withstand legal scrutiny.

49. It is well settled that the doctrine of approbate and reprobate applies only where a party consistently asserts mutually inconsistent positions in respect of the same transaction, the same subject-matter, and against the same opponent, so as to cause prejudice to the other side. A party cannot approbate and reprobate, i.e., affirm and deny the same position in the same context, where such inconsistency would amount to an abuse of process or have prejudicial effect. However, the doctrine cannot be lightly invoked to ex post facto invalidate a substantive legal right, especially where the earlier plea was taken in a completely different legal context and on different facts.

50. In the instant case, the earlier challenge in the Jagraon suit pertained exclusively to the nature and devolution of the agricultural land in Tehsil Jagraon, and the plaintiff's submission therein was directed only to the legal character of that property. That litigation did not involve the testamentary trust relating to House No. 41, Sector-4, Chandigarh, nor did it require determination of the validity of the entire Will as a coherent testamentary instrument operative vis-à-vis all properties. A prior inconsistent stand in respect of one parcel of property, taken in a distinct cause of action, cannot be elevated into a bar against asserting the correct legal position in another litigation regarding a different subject-matter.

51. It is a settled principle of law that the doctrine of estoppel cannot be invoked to override clear statutory provisions or to curtail the testamentary freedom recognised by law. Estoppel has no application where the issue involved in



the subsequent proceedings was neither directly in question nor required to be decided in the earlier litigation. Further, the doctrine cannot be employed to defeat a legal right conferred by statute or otherwise, particularly in matters of inheritance and succession, where the Court is required to determine substantive rights of heirs and beneficiaries on the basis of law and testamentary intention, and not on the basis of inconsistent or imperfect pleadings in earlier proceedings.

52. In the present case, even if it were assumed that the Varinder Kaur Mann or any other daughter of the testator once adopted an inconsistent position in another litigation, the same cannot estop them from asserting the validity of the Will in the present proceedings, where the issue is wholly different and the legal foundation is the testamentary intention of the deceased as evidenced in a duly proved holographic Will. The estate-planning arrangement made by the testator is not affected by any earlier stand taken by a party, nor can a later challenge to a different or inconsistent aspect of the property be allowed to defeat the Will as a whole.

53. Equally, the doctrine of acquiescence, which presupposes a party's *silent acceptance* of an event or position over time, has no application here. There is no evidence that the plaintiff stood by while others acted to their detriment on the faith of her earlier pleadings. In the absence of such essential elements, acquiescence cannot be invoked to defeat the testator's clear testamentary intention.

54. Therefore, the Court finds no merit in the contention that the Varinder Kaur Mann is barred by approbate and reprobate, estoppel or acquiescence from maintaining the suit seeking validity of the Will.

55. Viewed cumulatively, none of the circumstances relied upon by the appellants, whether individually or collectively, rise to the level of suspicious circumstances so as to unsettle the concurrent findings of due execution. The Will bears the unmistakable imprint of deliberate authorship, rational structuring, and conscious testamentary intent. The Courts below were, therefore, fully justified in



holding that the holographic Will dated 01.08.1994 stands validly executed and proved in accordance with law. These findings are accordingly upheld.

56. ***Nature of agricultural land (RSA No.415 of 2025)*** : The nature of agricultural land situated in the two villages of Tehsil Jagraon, was the subject matter of dispute in Civil Suit No. CS-21/2008 [later re-numbered as CS-1475 of 2013], instituted before the Jagraon Court. Two of the daughters of Shri Daljeet Singh Chahal, namely, Varinder Kaur *and* Sonu Mann claimed this property to be ancestral coparcenary property, having devolved upon of Shri Daljeet Singh Chahal from his father, Shri Jhanda Singh Chahal. They claimed birth-right in this property and asserted equal coparcenary shares therein and that the parties constituted a joint Hindu family with late Sardar Daljeet Singh Chahal as its Karta. Later during the proceedings, Varinder Kaur Mann changed her stand and after being transposed as one of the defendants, she made somersault and asserted the suit property to be exclusively owned by Shri Daljeet Singh Chahal, thus, supporting the stand of her brother Fateh Jang Singh Chahal and three other sisters, namely, Naresh Sandhu, Davinder Kaur Boparai & Indira Gill, in this regard.

57. On appraisal of the documentary and oral evidence, suit property of Tehsil Jagraon has been held by the Courts below to be the exclusive and self-acquired property of the testator. Having filed second appeal [RSA 415-2025], against concurrent findings of courts below, only Sonu Mann is still asserting the said land of the two villages of Tehsil Jagraon to be ancestral coparcenary property.

58. The legal position with regard to ancestral property is no longer res integra. Property acquires the character of ancestral property only if it devolves by inheritance through three successive generations, namely from father to son, from grandfather to father, and from great-grandfather to grandfather. As noticed in paragraph 223 of *Mulla's Principles of Hindu Law*, in order to establish the ancestral nature of a property, it must be shown that the property descended through



this uninterrupted male lineage. Any deviation or break in this chain of devolution destroys the coparcenary character, rendering the property the self-acquired property of the last holder.

59. The Hon'ble Supreme Court in ***CWT, Kanpur and others v. Chander Sen and others, (1986) 3 SCC 567***, authoritatively held that property inherited by a son from his father does not automatically become ancestral or coparcenary property; rather, it becomes the individual property of the heir, unless it can be shown to have descended through three generations. This principle was reiterated in ***Yudhishter v. Ashok Kumar, (1987) 1 SCC 204***, wherein the Supreme Court clarified that inheritance under the Hindu Succession Act, 1956 confers absolute ownership on the heir and does not revive the concept of coparcenary property under the old Hindu law.

60. In the present case, even as per the pleadings and the testimony of the plaintiff Sonu Mann (PW-2), it stands admitted that her father, late Sardar Daljit Singh Chahal, had acquired the suit land from his father, Sardar Jhanda Singh. There is, however, no documentary or oral evidence to establish as to from whom or in what manner Sardar Jhanda Singh himself had acquired the said property. The revenue records, including the village excerpts relied upon by the plaintiff, are silent on this aspect and do not establish descent through three generations. In the absence of such proof, the basic requirement for treating the property as ancestral or coparcenary remains unfulfilled.

61. More importantly, it is an admitted position that Sardar Daljit Singh Chahal was embroiled in litigation with his siblings in respect of the land situated in the two villages. The said litigation culminated in judgment dated 24.09.1997 (Ex. D-1) passed by this Court, whereby a partition was effected and specific khasra numbers were allotted to Sardar Daljit Singh Chahal. This fact has been further admitted by Sonu Mann in her cross-examination, wherein she acknowledged that mutation had already been sanctioned on the basis of the said judgment.



62. Once a partition by metes and bounds takes place and specific portions are allotted to a coparcener, the property loses its character as joint family or coparcenary property and becomes the separate and exclusive property of the allottee. This position has been conclusively affirmed by the Hon'ble Supreme Court in ***Uttam v. Saubhag Singh and others, (2016) 4 SCC 68***, wherein it was held that upon partition, the joint status of the family comes to an end and the share allotted becomes the absolute property of the allottee, incapable of being treated as coparcenary thereafter.

63. In this backdrop, the Courts below have rightly referred to the Explanation to Section 6, as also Section 6-A of the Hindu Succession Act, 1956, as amended in 2005, which categorically provide that where a partition has been effected prior to 20.12.2004, the property ceases to retain its coparcenary character.

64. Since the partition in the present case stood concluded in the year 1997, much prior to the cut-off date, the suit property cannot, by any stretch of reasoning, be treated as coparcenary property in the hands of late Sardar Daljit Singh Chahal.

65. ***Effect of Erroneous Recital in the Will*** : The recital in the Will describing the agricultural land of the two villages as Joint Hindu Family (coparcenary) property and referring to the bequest of the "half share" of the testator in favour of his son does not, in law, undermine the efficacy of the testamentary disposition. The construction of a Will is governed by Sections 82 to 85 of the Indian Succession Act, 1925, which mandate that the intention of the testator is to be gathered from the Will as a whole and that effect must be given to such intention, as far as possible, consistently with law.

66. Section 82 of the Act lays down that the meaning of any clause of a Will is to be collected from the entire instrument, and not from isolated expressions. Section 83 further clarifies that where the words of a Will are capable of two



constructions, that construction is to be preferred which gives effect to the disposition, rather than one which renders it inoperative. Section 84 provides that where property is described inaccurately, but the intention to bequeath is otherwise clear, the bequest does not fail merely by reason of such inaccurate description. Section 85 similarly recognises that a bequest is not void for uncertainty if the intention of the testator can be ascertained with reasonable certainty from the Will read as a whole.

67. The Will in the present case was executed on 01.08.1994, at a time when litigation between the testator and his siblings regarding the agricultural land situated in Village Agwan Gujran and Village Galib Kalan was pending. The testator's description of the land as coparcenary property and his reference to a "half share" must, therefore, be understood in the context of his then-perceived legal position. Subsequently, by judgment dated 24.09.1997 (Ex.D1), this Court conclusively determined that upon partition the said land fell to the exclusive share of the testator. The later judicial determination of title merely clarified the extent of the testator's ownership and does not render the earlier testamentary disposition uncertain or ineffective.

68. Even though the testator was a Senior Advocate, he appears to have proceeded on an assumption regarding the juristic character of the property, which was ultimately found to be incorrect. Such a mistaken description of title does not defeat the bequest. Sections 82 and 84 of the Indian Succession Act, 1925 make it clear that the Court must give effect to the substance of the testamentary intention, rather than allow the disposition to fail on account of an erroneous recital, particularly where the testator had an alienable interest, which subsequently stood enlarged or clarified by operation of law.

69. It may be urged, though not specifically pleaded, that since the testator referred to the property as coparcenary and purported to bequeath only his perceived half share, the remaining share ought to devolve by natural succession.



This contention overlooks the settled principle that an admission or recital contrary to law is not binding, and that the extent of a bequest is not to be restricted by a mistaken understanding of title when the intention of the testator is otherwise manifest. A reading of the Will as a whole, as required by Section 82, leaves no ambiguity that the testator intended his son to succeed to the agricultural land exclusively.

70. Once the partition proceedings culminated in 1997 and the testator's exclusive ownership stood judicially affirmed, the bequest necessarily operated upon the entirety of the property falling to his share. Construing the Will in accordance with Sections 82 to 85 of the Indian Succession Act, 1925, the testamentary disposition in favour of the son cannot be truncated or rendered partially inoperative merely because the testator, at the time of execution, underestimated the extent of his title.

71. The concurrent finding of the Courts below that the property was the exclusive and absolute property of the testator, and therefore fully capable of being disposed of by him through a Will, thus rests on sound legal principles and binding precedent, and calls for no interference. Accordingly, the bequest of the agricultural land in favour of the son stands as a valid and effective dispositive clause, and no ground is made out to interfere with the concurrent findings of the Courts below on this aspect. As such, RSA No. 415 of 2025, therefore, is devoid of any merits.

72. ***Validity and Construction of the Trust:*** The principal dispute relates to House No. 41, Sector 4, Chandigarh and the associated financial instruments, which the testator has expressly treated as forming the corpus of a private testamentary trust, to be known as the "Daljit Singh Chahal Advocate Private Trust, Chandigarh".

73. The language of the Will clearly indicates that the testator intended that all benefits arising out of House No. 41, Sector-4, Chandigarh, together with



the financial instruments forming part of the Trust Fund, should enure exclusively to his son, Fateh Jang Singh Chahal, and his descendants. This intention emerges from the following features:

- a. The object of creating the trust in respect of House No. 41, Sector-4, Chandigarh was to ensure that the son and his descendants receive support for their education, marriages and maintenance, and to supplement their income so as to preserve their economic and social standing. Accordingly, all financial instruments were directed to be converted into a consolidated Trust Fund.
- b. The Will makes it explicit that the beneficiaries of the trust are only the son and his descendants, save for minor amounts earmarked towards trusteeship expenses and maintenance of the house.

74. At the same time, the testator appears to have been conscious of the risk of dissipation or alienation of the house and financial corpus. To safeguard the estate while ensuring that only the son and his descendants benefit from it, he constituted a trust and appointed his two younger daughters — Varinder Kaur Mann and Sonu Mann — as trustees, conferring upon them limited managerial and supervisory functions. This is reinforced by the following clauses in the Will:

- i. the Trust Fund is to be utilised only for the benefit of the beneficiaries, save for specified exceptions;
- ii. detailed directions are issued regarding investment of the Trust Fund in identified financial instruments such as PPF, UTI and NSS etc;
- iii. a fixed monthly amount is to be paid to the beneficiary;
- iv. a specified annual sum is earmarked for repair and maintenance of the house;



- v. the trustees are to bear liability for payment of income tax, house tax and other statutory dues;
- vi. the trustees are expressly prohibited from creating any encumbrance on the trust property;
- vii. they are further restrained from alienating the trust property in any manner whatsoever; and
- viii. the Trust Fund is to be applied towards the upbringing, education and marriage of the beneficiaries, and in the event of disagreement between the two trustees on such utilisation, the decision of Varinder Kaur Mann is to prevail.

75. It is also evident from the Will that no proprietary rights have been conferred upon the daughter-in-law of the testator, who has only been granted a right of residence. Likewise, no rights have been given to the three elder daughters, namely, Naresh Sandhu, Daljinder Kaur Boparai and Indira Gill. The trustees themselves have merely been granted a right of residence, in their capacity as trustees, in the portions specifically earmarked for them in the site plan appended to the Will, along with their respective sons.

76. It is thus clear that the Will sets out, with remarkable precision, the ambit of the trust property, the constitution of the Trust Fund, the manner of investment of its income, the purposes for which the funds may be utilised, and the restrictions placed upon alienation of the Trust Property. Equally explicit is the identification of the two youngest daughters, namely, Mrs. Virinder Kaur Mann and Mrs. Sonu Mann as trustees, and the declaration that the son and his descendants shall be the beneficiaries of the trust.

77. Reading the Will as a whole, and applying the settled principle that a testamentary instrument must be construed so as to give effect to the dominant intention of the testator gathered from the entire document rather than isolated

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clauses, the testamentary scheme reveals a clear separation of legal and beneficial ownership. The repeated prohibitions against mortgage, sale, lease, encumbrance or creation of any charge over the house; the detailed directions for investment and accumulation of interest; the stipulation of a nominal monthly allowance to the son; and the specification of educational, marital and welfare needs of his descendants as the legitimate heads of expenditure, together indicate that the testator did not intend the Trust Property to pass to the son as his absolute estate. Instead, he conceived a protective and enduring family trust, intended to preserve the house and financial corpus as a capital asset under controlled management, while enabling carefully regulated enjoyment of the income by the line of the son.

78. The appellants have urged that the exclusion of the three elder daughters and their descendants from trusteeship as well as from the benefit of the trust constitutes an inherently suspicious feature which renders the Will unnatural. This Court is unable to accept that submission. The exclusion is expressly articulated in unambiguous language. It is not abrupt or incidental and rather, it is embedded in a larger scheme by which trusteeship was consciously vested in the two youngest daughters and the beneficial enjoyment was restricted to the son and his progeny. Where the Will is holographic, reasoned and internally coherent, such differential treatment among heirs, even if severe or inequitable, cannot by itself amount to a suspicious circumstance so as to undermine its validity. A testator is entitled to exercise preferences and distinctions based on his personal perceptions and family dynamics, and the Court is not to substitute its own notions of fairness for the intention of the author of the Will.

79. The appellants have further relied upon the decision of the Bombay High Court in ***Mahadeo Ramchandra v. Damodar Vishwanath and another, AIR 1957 Bom 218***, to contend that the testamentary disposition made by late Sardar Daljit Singh Chahal in respect of House No. 41, Sector-4, Chandigarh and the financial instruments is vague, indefinite and uncertain, and therefore void. The reliance is misplaced, both on facts and in law.



80. As noticed earlier, the construction of a Will is governed by Sections 82 to 85 of the Indian Succession Act, 1925, which embody the fundamental rule that the intention of the testator must be gathered from the Will as a whole and given effect to as far as possible. Section 82 mandates a holistic reading of the instrument; Section 83 prefers a construction that sustains the bequest rather than defeats it; Section 84 clarifies that inaccurate or imperfect description of property does not vitiate a bequest, if the intention is otherwise clear; and Section 85 provides that a disposition does not fail for uncertainty if the testator's intention can be reasonably ascertained.

81. Applying these principles, a Will cannot be struck down merely because it confers discretion on trustees, unless such discretion is unguided, arbitrary, or divorced from any ascertainable object. The test is not whether discretion exists, but whether the testator has laid down a definite testamentary scheme capable of being administered.

82. The Bombay High Court in ***Mahadeo Ramchandra (supra)*** itself drew a clear doctrinal distinction between a 'trust' and a 'power', emphasising that uncertainty is fatal only where a trust obligation is imposed without identifiable objects, whereas a general power of appointment, even if wide, does not fail for vagueness. The Court ultimately upheld the disposition in that case by holding that the testator had conferred a valid power, relying on Privy Council decisions such as ***Shirnibai v. Ratanbai, AIR 1921 PC 47***, and ***Attorney-General of New Zealand v. New Zealand Insurance Co. Ltd., AIR 1937 PC 8***.

83. When the principles laid down in ***Mahadeo Ramchandra (supra)*** are read in conjunction with Sections 6, 11, 23 and 31 of the Indian Trusts Act, 1882, it becomes evident that the Will in the present case does not suffer from the infirmity of uncertainty as is alleged by the appellants.

84. Section 6 of the Trusts Act requires certainty as to (i) intention, (ii) purpose, (iii) beneficiary, and (iv) trust property, when a trust is created. All these



elements are clearly present in the Will of late Sardar Daljit Singh Chahal. The intention to create a trust is unequivocal. The trust property is specifically identified. The beneficiary, namely the son Fateh Jung Singh Chahal and his descendants, is clearly defined. And the purpose of the trust, namely to secure education, upbringing, marriages and maintenance of the beneficiary while preserving the corpus, is expressly stated.

85. Section 11 obliges trustees to fulfil the purpose of the trust and to obey the directions of the author of the trust. Far from leaving the trustees with unregulated discretion, the Will, in the present case, imposes detailed and binding directions regarding investment of funds, monthly payments to the beneficiary, annual expenditure on repairs, payment of taxes, and an absolute prohibition on alienation or encumbrance of the trust property.

86. Section 23 makes trustees liable for breach of trust, thereby providing a statutory safeguard against misuse or deviation from the trust purpose. Further, the Act permits trustees to apply trust property only in accordance with the trust directions, reinforcing that discretion, where conferred, must operate within the four corners of the testamentary scheme.

87. Unlike the testamentary language considered in ***Mahadeo Ramchandra (supra)***, where the executor was left free to distribute the estate to any institution or object “as he may deem fit”, the present Will contains a tightly structured trust framework. The trustees are not authorised to choose beneficiaries at will, nor to divert the property for unspecified purposes. Their discretion is limited, supervised, and purpose-oriented, and is exercisable only for the benefit of clearly identified beneficiaries.

88. Construed in accordance with Sections 82–85 of the Indian Succession Act, 1925 and tested against the statutory requirements of a valid trust under Sections 6, 11, 23 and 31 of the Trusts Act, the Will cannot be characterised as vague or uncertain. On the contrary, it reflects a deliberate estate-planning exercise



aimed at preserving the property while ensuring controlled enjoyment by the beneficiary.

89. Accordingly, the principles laid down in ***Mahadeo Ramchandra v. Damodar Vishwanath (supra)*** do not advance the appellants' case. The testamentary trust created by late Sardar Daljit Singh Chahal is legally sound, certain in its objects and beneficiaries, and fully capable of administration. No ground is made out to declare the disposition void on the ground of vagueness or indefiniteness.

90. The principles governing construction of a Will are well settled. As held by the Hon'ble Supreme Court in ***Raj Bajrang Bahadur Singh v. Thakurain Bakhtraj Kuer, 1953 SCR 232***, the true intention of the testator must be gathered not by isolating particular expressions, but by reading the Will as a whole and giving due effect to all its provisions, without ignoring any part thereof.

91. Similarly, in ***Bajrang Factory Ltd. and others v. University of Calcutta and Others, (2007) 7 SCC 183***, the Hon'ble Supreme Court emphasised that while construing a Will for determining its validity, the Court must place itself in the position of the testator and consider the surrounding circumstances as they existed at the time of execution, and not in the light of subsequent events. It was further held that:

- (i) the intention of the testator is to be ascertained not only from the language employed in the Will, but also from the attendant circumstances;
- (ii) the Will must be read and construed as an integrated whole, and not by focusing on isolated clauses;
- (iii) where a reasonable construction is possible which gives effect to the Will, the Court should lean in favour of sustaining, rather than invalidating, the testamentary disposition; and



(iv) even if a particular clause is found to be invalid or inoperative, the remaining dispositions need not fail, provided the invalid portion is severable and the overall testamentary scheme remains intact.

92. Applying these principles to the present case, the Will dated 01.08.1994, when read in its entirety and in the context of the circumstances prevailing at the time of its execution, manifests a coherent and consistent testamentary plan. The Court is, therefore, duty-bound to adopt an interpretation that preserves and effectuates the dominant intention of the testator, rather than one which defeats the Will by isolating or overstressing individual clauses.

93. Learned counsel for the appellants has further contended that the Will dated 01.08.1994 could not have been acted upon in the absence of probate or letters of administration. In support of this submission, reliance has been placed upon the judgment of the Kerala High Court in ***Philip Raymond and another v. Kumara Pillai Demadaran Nair and another***, AIR 1982 Ker 136, wherein it was held that where assets are bequeathed to a trust under a Will and a decree is sought to be executed on the strength of such Will, the managing trustee cannot be permitted to execute the decree without first obtaining probate. Reliance has also been placed upon the decision of the Hon'ble Supreme Court ***Mrs. Hem Nolini Judah (since deceased) v. Mrs. Isolyne Saroj Bashini Bose***, AIR 1962 SC 1471, wherein it was held that Section 213 of the Indian Succession Act, 1925 creates a bar to the establishment of any right under a Will by an executor or legatee unless probate or letters of administration have been obtained. Learned counsel has further relied upon ***Binapani Kar Chowdhury v. Satyabrata Basu and another***, AIR 2006 SC 226, reiterating the same principle.

94. However, none of the aforesaid authorities advance the appellants' case, as they are clearly distinguishable on both statutory and territorial grounds. Section 213 of the Indian Succession Act, 1925, by its express terms, applies only to Wills falling within the ambit of Section 57(a) and (b) of the Act, namely Wills



made by Hindus, Buddhists, Sikhs or Jains within the local limits of the former Presidency towns of Calcutta, Madras and Bombay, or relating to immovable property situated within those territories. The judgments relied upon by learned counsel pertain to properties situated in Kerala, Uttar Pradesh and West Bengal, where the statutory requirement of probate might be attracted.

95. In contradistinction, it is well-settled that probate or letters of administration are not mandatory in respect of Wills concerning property situated in the States of Punjab and Haryana or the Union Territory of Chandigarh. This legal position has been consistently reiterated by this Court from time to time, holding that Section 213 of the Act does not operate as a bar to the enforcement of rights under a Will in these territories. Reference may be made to ***Ram Chand vs. Sardara Singh and another AIR 1962 P&H 382***; and ***Behari Lal Ram Charan vs. Karam Chand Sahni and others, AIR 1968 (Punjab) 108***, which have been approved by Hon'ble Supreme Court in ***Kanta Yadav vs Om Prakash Yadav (supra)***.

96. Consequently, the absence of probate or letters of administration does not render the Will dated 01.08.1994 inoperative, nor does it disentitle the trustees or beneficiaries from asserting rights flowing therefrom. The reliance placed on the decisions cited by learned counsel for the appellants is, therefore, wholly misconceived and does not warrant interference with the concurrent findings of the Courts below.

97. ***Removal of Trustees and Alleged Misuse (RSA 3416 of 2023)***: The grievance of the beneficiary Fateh Jang Singh Chahal in the third suit was that the trustees Varinder Kaur Mann & Sonu Mann, failed to open separate trust accounts, did not pay him the monthly amount of ₹1,000/-, and did not invest the trust funds in the manner contemplated by the Will. The Courts below have concurrently held that misappropriation or usurpation of trust funds was not proved and that there was no evidence of wrongful personal enrichment. The Will itself does not provide for automatic removal of trustees on the allegation of adminis-



trative lapse, nor does it confer supervisory authority on the beneficiary to control the trustees.

98. On the contrary, the conferment of a casting vote upon one of the trustees and the express direction that the Trust Property shall not be alienated or encumbered under any circumstances indicate that trusteeship was itself an essential and integral component of the estate structure devised by the testator.

99. The evidence led by the parties (in the third suit), particularly the admissions made by the plaintiff–beneficiary Fateh Jang Singh Chahal (PW-1), assumes decisive significance while considering the prayer for removal of trustees and rendition of accounts. The plaintiff categorically admitted in his cross-examination that defendant No.2 (Sonu Mann) never came into possession of any trust funds; that no rendition of accounts was sought from her; and that she neither misutilised nor misappropriated any trust property. He further conceded that no prior notice was issued to the trustees alleging violation of the testamentary directions, nor could he specify any date or instance when such compliance was demanded.

100. As regards defendant No.1 (Varinder Kaur Mann), the only alleged instance of misuse pertains to withdrawal from the PPF account standing in the name of the testator after his demise. Even on this aspect, the plaintiff failed to establish, by cogent evidence, that such withdrawal constituted diversion of trust funds for personal gain, or that it was destructive of the trust purpose. On the contrary, the trustee Varinder Kaur Mann in her testimony as DW1 admitted withdrawal and asserted that the amount was utilised for renovation and maintenance of the trust property itself. The Will does not prescribe forfeiture or removal of trusteeship for such conduct, nor does it mandate automatic disqualification upon alleged deviation.



101. Sections 47 to 51 of the Indian Trusts Act embody the core fiduciary principles governing the conduct of trustees and the administration of trust property.

Section 47 lays down that a trustee cannot delegate his office or essential duties, whether to a co-trustee or to a third person, unless such delegation is expressly authorised by the trust instrument, arises in the regular course of business, is necessary, or is consented to by a competent beneficiary. However, the section clarifies that delegation of merely ministerial acts involving no independent discretion, such as collection of rents or effecting a sale through an agent, does not amount to impermissible delegation.

Section 48 mandates that where there are more trustees than one, they must act jointly in the execution of the trust, unless the trust instrument provides otherwise. Unilateral exercise of trust powers by a single trustee is, therefore, ordinarily impermissible.

Section 49 empowers the Court to control the exercise of discretionary powers conferred upon trustees where such discretion is not exercised reasonably, honestly, or in good faith. The provision ensures judicial supervision over abuse or misuse of discretionary authority.

Section 50 declares that a trustee is not entitled to remuneration for services rendered in administering the trust unless such remuneration is expressly authorised by the trust instrument, by contract with the beneficiary, or by order of the Court. Trusteeship is, by default, a gratuitous fiduciary office.

Section 51 prohibits a trustee from using or dealing with trust property for personal profit or for any purpose unconnected with the trust. Any personal benefit derived from trust property, except as expressly authorised, constitutes a breach of trust.

102. Section 23 of the Indian Trusts Act, 1882 provides for liability of trustee for breach of trust. It makes a trustee liable for loss to the trust property, only where such loss is caused by breach of trust. Mere delay, imperfect compli-



ance, or administrative lapse, in the absent proof of dishonest intention, fraud, or wilful misapplication, does not ipso facto justify removal of a trustee.

103. When the evidence in the present case is examined in the light of these statutory provisions, it becomes evident that while the trustees may not have operationalised the trust with procedural exactitude, such as by formally segregating accounts or maintaining structured records, no material breach of trust within the meaning of Section 23 read with Sections 47 to 51 has been established. There is no proof of dishonest intention, wilful diversion of trust property, or conduct fundamentally destructive of the trust purpose.

104. At the same time, the statutory scheme of the Trusts Act does not contemplate passive trusteeship. Trustees are under a continuing obligation to actively implement the trust, preserve the trust estate, maintain accounts, and apply the trust property strictly in accordance with the directions of the testator. Where such duties have not been fully discharged, the Court is empowered to issue corrective and supervisory directions to secure compliance, without resorting to the extreme step of removal of trustees, particularly when the testator consciously vested wide administrative discretion in the trustees, subject to fiduciary obligations, and did not provide for their displacement except through natural vacancy. Courts cannot rewrite the testamentary scheme under the guise of equitable intervention.

105. Thus, harmonising Sections 47 to 51 of the Trusts Act with the testamentary intent and the concurrent findings of fact, the appropriate course is not to unsettle the trusteeship, but to compel structured, transparent, and faithful administration of the trust going forward.

106. In the absence of any proof of misappropriation or conduct that defeats the purpose of the trust, the trustees cannot be removed merely because some administrative steps were not carried out in strict accordance with the Will. In such a situation, the proper course is to ensure due compliance with the trust



scheme by issuing directions for maintenance of accounts, proper handling of funds, and adherence to the testamentary directions, rather than removing the trustees chosen by the testator himself. Interference with the concurrent findings of the Courts below, on the issue of alleged misuse of trust funds, is not justified unless perversity or a clear misreading of evidence is established. No such defect has been shown in the present case.

107. On a holistic reading of the Will and the evidence, this Court is of the view that the Courts below rightly construed the testamentary instrument as creating a valid trust in respect of House No. 41, Sector 4, Chandigarh and the financial corpus, with trusteeship vested in the two youngest daughters Varinder Kaur Mann & sonu Mann and beneficial enjoyment confined to the son and his descendants. The pleas of perversity and non-implementation are insufficient to unsettle the concurrent findings. The trust scheme may undoubtedly require regulatory directions to ensure faithful adherence to the investment and accounting stipulations contained in the Will, but such directions would operate within the framework of the testamentary trust, and not in derogation of it.

108. That said, the material on record does reveal that the trust has not been operationalised with the degree of formality and transparency envisaged by the testator, particularly with respect to segregation of trust funds, maintenance of accounts, and structured implementation of the trust scheme. The beneficiary cannot be left remediless, nor can the trust be permitted to remain in a state of informal administration indefinitely.

109. Accordingly, while the prayer for removal of trustees stands rightly rejected, the ends of justice require regulatory and corrective directions, consistent with provisions of the Trusts Act, to ensure faithful execution of the Will.

110. In view of the foregoing discussion, this Court finds no ground to interfere with the concurrent findings of the Courts below with respect to the due execution and validity of the holographic Will dated 01.08.1994 and the testa-



mentary scheme embodied therein. The Will clearly create a private trust in respect of House No. 41, Sector-4, Chandigarh and the financial corpus constituting the Trust Fund, vests trusteeship in Mrs. Virinder Kaur Mann and Mrs. Sonu Mann, and restricts the beneficial enjoyment to the son and his descendants. The findings returned by the Courts below, rejecting the allegations of misappropriation and misuse of Trust Fund and holding that the trust clauses operate in accordance with the intention of the testator, are borne out from the record and do not suffer from perversity so as to warrant interference in second appeal.

111. At the same time, having regard to the nature of the estate structure devised by the testator and in order to ensure faithful implementation of the testamentary directions and transparent administration of the trust estate, this Court is of the view that certain regulatory measures are necessary to secure accountability without disturbing the essential framework of the trust.

112. However, in view of the evidentiary position emerging on record, namely, that except for the PPF account, all other financial instruments (bank accounts, FDRs, certificates, etc.) are admittedly in the possession and enjoyment of the beneficiary Fateh Jang Singh Chahal, the direction regarding opening and operation of the trust account requires careful calibration, so as to remain faithful to the Will, realistic in execution, and legally sustainable.

113. The Will contemplates that all financial instruments standing in the name of the testator shall constitute the *“Trust Fund”* and be deposited in the name of the Trust. However, testamentary directions must be enforced in the context of existing facts, and not in abstraction. The evidence led by the parties establishes that, save and except the PPF account, the other movable financial assets stood transferred or came into the possession of the beneficiary son after the demise of the testator and have since been enjoyed by him. These assets are no longer traceable as a corpus capable of being consolidated by the trustees.



114. In such circumstances, the Court cannot direct a notional or retrospective reconstruction of a trust fund that is no longer available or identifiable. Any such direction would amount to reopening settled possession without pleadings or proof of misappropriation, which is impermissible in second appellate jurisdiction.

115. At the same time, the Court cannot ignore the express testamentary intent that whatever trust funds are available or come into existence must be dealt with strictly in accordance with the trust scheme. Therefore, the direction to open a trust account must be prospective, limited, and asset-specific, rather than omnibus.

Conclusion & Directions:

116. Accordingly, the findings recorded by the Courts below are affirmed. All the four Regular Appeals are hereby dismissed. However, with a view to ensure the effective implementation of the Will dated 01.08.1994 and the proper, transparent and lawful administration of "*Daljit Singh Chahal, Advocate Private Trust, Chandigarh*", this Court, while declining interference on merits, deems it appropriate to issue the following supervisory directions, in exercise of jurisdiction under Section 49 of the Indian Trusts Act, 1882:

(i) The prayer seeking removal of Mrs. Varinder Kaur Mann and Mrs. Sonu Mann as trustees is hereby declined. They shall continue to function as trustees of '*Daljit Singh Chahal, Advocate Private Trust, Chandigarh*'.

(ii) The trust structure, the dispositive scheme, and the restrictions on alienation as expressly contained in the Will dated 01.08.1994 shall remain fully operative and shall be adhered to strictly in letter and spirit.

(iii) In order to ensure faithful administration of the trust, the following directions are issued to the trustees:

(a) The trustees, namely Mrs. Varinder Kaur Mann and Mrs. Sonu Mann, shall act jointly in all matters concerning the administration of the trust,



strictly in accordance with the terms of the Will and the mandate of Section 48 of the Indian Trusts Act, 1882.

(b) Within a period of three months from today, the trustees shall open a bank account in the name of “Daljit Singh Chahal, Advocate Private Trust, Chandigarh”, to be operated jointly, for routing and managing such trust-related funds as are presently identifiable or may lawfully accrue hereafter.

(c) In view of the evidence on record demonstrating that all financial instruments, except the PPF account, are already in the possession and enjoyment of the beneficiary, the said trust account shall operate prospectively and shall receive only such funds as are legally transferable to, or accrue for, the Trust, without disturbing assets already enjoyed by the beneficiary.

(d) The trustees shall maintain proper annual accounts, strictly confined to trust funds actually handled or managed by them through the aforesaid account. Such accounts shall be open to inspection by the beneficiary upon reasonable notice.

(e) Any future exercise of discretionary power by the trustees, if shown to be unreasonable, lacking in good faith, or contrary to the object and purpose of the trust, shall remain amenable to correction by the competent Civil Court in accordance with Section 49 of the Indian Trusts Act, 1882.

(f) For the avoidance of any doubt, it is clarified that these directions are prospective and supervisory in nature and shall not be construed as authorising:

- reopening of past transactions,
- retrospective reconstruction of the trust corpus, or
- recovery of assets already in settled possession,

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in the absence of a specific and proven finding of breach of trust.

117. It is further clarified that compliance with the aforesaid directions shall not confer any proprietary or beneficial interest upon the trustees in the trust property or funds beyond what is expressly provided in the Will; and their role remaining purely fiduciary, as contemplated under Sections 48 and 51 of the Indian Trusts Act, 1882.

118. Further, nothing contained herein shall be construed as directing or mandating any mutation or transfer of title by any statutory authority, such matters being governed independently in accordance with law.

119. Save to the limited extent indicated above, nothing in this order shall be construed as altering, modifying or diluting the testamentary scheme. The trust shall otherwise continue to operate strictly in accordance with the Will.

Final Result :

120. With the aforesaid directions, all the Regular Second Appeals stand dismissed. The trusteeship as constituted under the Will is preserved. The above compliance directions shall form an integral and enforceable part of the decree.

121. Pending applications, if any, also stand disposed of. There shall be no order as to costs.

January 14, 2026
Sarita/Neetika

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	Yes

Uploaded on : January 16, 2026