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**(1992) 12 P&H CK 0007**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Regular Second Appeal No. 2567 of 1980

Dauli

APPELLANT

Vs

Bachan Singh

RESPONDENT

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**Date of Decision:** Dec. 3, 1992

**Hon'ble Judges:** J.L. Gupta, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

J.L. Gupta, J.

Bhagwan Kaur widow of Ishar Singh owned certain property on May 22, 1966 she executed a Will in favour of her brother and an attorney, Bachan Singh. She died on June 26, 1966. On her death, mutation in respect of her agricultural land was entered on the basis of the Will Ex.DA in favour of Bachan Singh/The collaterals of Ishar Singh (husband of Bhagwan Kaur) filed a suit for possession. The suit was dismissed by the trial court. Their appeal also having met the same fate, they have come to this Court in present second appeal.

2. I have heard Shri. R.R. Battas, learned Counsel for the Appellants and Shri Amarjit Markan, learned Counsel for the Respondents.

3. Shri Battas contends that the manner in which the Will has been written and the fact that the two attesting witnesses are not only from the village of Bachan Singh but also his relations, caused a serious doubt about the genuiness of the Will. He further contends that the scribe of the Will Mohinder Singh, DW-5 is from a different village and his presence at the time of the writing of the Will is highly suspicious. On these premises, the learned Counsel contends that the judgment and decree passed by the Court below cannot be sustained.

4. The Will has been produced on record As Ex.DA. It is duly attested by DW-1, Jangir Singh and DW-2, Prem Singh. Further it is established on the record that Bachan Singh was not only the brother of Bhagwan Kaur but also her attorney. It is the case of the Plaintiff-Appellants that Bachan Singh had. been even selling her property. In such a situation, it is safe to assume that Bachan Singh was close to Bhagwan Kaur She did not commit anything highly unnatural in preferring her brother to the collaterals of her husband. The discrepancies pointed out by the counsel for the Appellants in the statements of various witnesses are not only minor but are in fact symbolic of the fact that they were making their statement correctly and minor discrepancies occurred on account of lapse of time and memory. Otherwise I find nothing suspicious about the documents.

5. Consequently, there is no ground to interfere with the concurrent finding of fact recorded by both the courts below. The appeal is wholly lacking in merit. It is dismissed. In the circumstances of the case, the parties are left to bear their own costs.