(2016) 08 SHI CK 0103

High Court of Himachal Pradesh

Case No: RSA No. 48 of 2004

Soma Devi		APPELLANT
	Vs	
Ghuin Devi		RESPONDENT

Date of Decision: Aug. 5, 2016

Citation: (2016) 4 HimLR 2422

Hon'ble Judges: Mr. Ajay Mohan Goel, J.

Bench: Single Bench

Advocate: Ex-parte, for the Respondents No. 1(a) to 1(g); Mr. B.C. Verma, Advocate, for the Respondents No. 2 to 4; Mr. Rajnish K. Lal, Advocate vice Mr. Sanjeev Sood, Advocate, for the Appellant

Final Decision: Disposed Off

Judgement

Ajay Mohan Goel, J. - By way of present appeal, the appellant has challenged the judgment and decree dated 20.12.2003 passed by the Court of learned District Judge, Kinnaur, Civil Division at Rampur Bushahr, in Civil Appeal No. 32 of 2003, vide which judgment the learned Appellate Court has dismissed the appeal filed by the present appellant and upheld the judgment and decree passed by the Court of learned Sub Judge 1st Class, Anni, in Civil Suit No. 32-1 of 2000, dated 14.07.2003.

2. This appeal was admitted on 06.05.2004, on the following substantial questions of law:-

"1. Whether the findings of the Court below holding that the ''Will'' Exhibit PW-3/A was proved and the ''Will'' Exhibit DW- 2/A was not proved are based on misreading of oral and documentary evidence and are perverse and the inference as drawn by the Courts below is not sustainable in law?

2. Whether the findings of the Courts below are vitiated and the order dated 18.06.2001 disallowing the examination of the expert witness to disprove the ''Will'' Exhibit PW-3/A is correct and the judgment and decree is liable to be set aside?

3. Brief facts necessary for the adjudication of this case are that respondents/plaintiffs (hereinafter referred to as the ''plaintiffs) filed a suit to the effect that late Shri Palas Ram was owner in possession of the suit land to the extent of his share and plaintiff No. 1 was the widow of late Shri Palas Ram whereas plaintiffs No. 2 to 4 and the defendant were his daughters. As per the plaintiffs, Palas Ram, in his life-time, executed a ''Will'' on 31.12.1997 in the presence of witnesses which was his last ''Will''. By way of said ''Will'', he bequeathed his share in the landed property mentioned in the plaint in favour of the plaintiffs in equal shares. Further the case of the plaintiffs was that the defendant has produced a ''Will'' before Sub-Registrar, Sub-Tehsil Anni for the purpose of registration purported to have been executed by late Shri Palas Ram in her favour which ''Will'' was wrongly registered by Sub-Registrar while rejecting the ''Will'' executed by the deceased in favour of the plaintiffs. Sub-Registrar, Anni acting as Assistant Collector IInd Grade also attested a mutation No. 1999 dated 29.7.2000 in favour of defendant on the basis of the illegal and forged ''Will''. Accordingly, on these bases, the suit was filed by the plaintiffs for declaration to the effect that the ''Will'' dated 31.12.1997, executed by late Shri Palas Ram in favour of plaintiffs was legal and valid and plaintiffs inherited the estate of late Shri Palas Ram as per that ''Will'' and also to the effect that the ''Will'' purported to have been executed in favour of defendant by late Shri Palas Ram is illegal, invalid and inoperative and not binding on the rights of the plaintiffs. The case of the plaintiffs was contested by the defendant who set up a case that ''Will'' dated 24.11.1997 executed by late Shri Palas Ram in favour of the defendant was the last and genuine ''Will''. It was denied by the defendant that ''Will'' dated 31.12.1997 was false and fictitious. According to her, ''Will'' executed in her favour was prepared by late Shri Palas Ram because he was being properly looked after by the defendant and her husband and it was on account of services which were rendered by the defendant to late Shri Palas Ram that he bequeathed his property by way of said ''Will'' in her favour on account of love and affection. It is also her case that the ''Will'' in possession of the plaintiffs was false or forged. Accordingly on these grounds, the case as was put forth by the plaintiffs was denied by the defendant.

4. On the basis of pleadings of the parties, the learned trial Court framed the following issues:-

"1.Whether ''''Will'''' dated 31-12-1997 executed by Shri Palas Ram in favour of plaintiff is legal and valid? OPP.

2. Whether ''''Will'''' dated 24-11-1997 executed in favour of defendant is illegal, null and void? OPP.

3. Whether plaintiff has no locus standi to file the present suit? OPD.

4. Whether suit is not maintainable in the present form? OPD.

5. Whether the ''Will'' dated 31-12-1997 is the result of coercion and un-due influence? OPD

6. Whether suit is not properly valued for the purpose of court fees and jurisdiction?

7. Relief."

5. On the basis of evidence adduced by the respective parties both oral as well as documentary, the learned trial Court decided the issues so framed as under:-

"Issue No. 1 :	Yes.
Issue No. 2 :	Yes.
Issue No. 3 :	No.
Issue No. 4 :	No.
Issue No. 5 :	No.
Issue No. 6 :	No.
Relief :	The suit of the plaintiffs is decreed, per operative part of the judgment."

6. Learned trial Court decreed the suit of the plaintiffs in following terms:

"Judged in the light of my findings returned on the foregoing issue, the suit of the plaintiff succeeds and the same is hereby decreed for declaration that the ''Will'' dated 31-12-1997 executed by late Palas Ram in favour of plaintiffs is legal, valid and the plaintiffs are the only legal heirs to succeed the estate of late Palas Ram by declaring the ''Will'' dated 24-11- 1997 in favour of defendant illegal, null and void and the mutation qua the estate of Palas Ram sanctioned in favour of defendant on the basis of ''Will'' dated 24-11-1997 is wrong, illegal, void in favour of the plaintiffs against the defendants as no order to cost."

7. Learned trial Court held that in order to conclude as to whether the ''Will'' dated 31.12.1997 was a valid ''Will'', what was required to be seen was whether deceased Palas Ram was in sound disposing state of mind at the time of execution of the ''Will'' or not. It further held that all the plaintiffs witnesses stated that in unison voice that Palas Ram was in a sound disposing state of mind at the time of execution of the ''Will'' dated 31.12.1997. On the other hand, defendant failed to bring any

material on record to the effect that Palas Ram was not in a sound disposing mind. Learned trial Court further held that the due execution of the ''Will'' stood proved by PW3 Damodar Singh and PW4 Tabe Ram, both of whom were attesting witnesses of the ''Will'' Exhibit PW-3/A. It further held that the defendant had failed to prove that ''Will'' Exhibit PW-3/A was a result of coercion and undue influence. Accordingly, the learned trial Court held that the plaintiffs had successfully discharged the onus of proving due execution of ''Will'' dated 31.12.1997 by Palas Ram and said ''Will'' is not shrouded with any suspicious circumstance. Learned trial Court also disbelieved ''Will'' dated 24.11.1997 by holding that it was apparent from the statement of DW2 Mangal Chand and DW3 Chet Ram that testator had not put his signatures in the presence of DW2 nor DW3 Chet Ram had attested the ''Will'' at the instance of the testator. Learned trial Court also took into consideration the fact that DW3 Chet Ram had deposed that his father Hans Raj had disclosed to him that signatures of Palas Ram were obtained by Dharam Dass, husband of the defendant, on the pretext that same were required for the payment of some medicine bills.

8. Feeling aggrieved by the said judgment passed by the learned trial Court, appeal was filed by the defendant.

9. Learned Appellate Court while upholding the judgment and decree passed by the learned trial Court held that ''Will'' dated 31.12.1997 stood duly proved on record as per law and it was not shrouded with any suspicious circumstance. Learned Appellate Court also held that it stood proved on record that testator had already executed gift deed in favour of husband of the defendant-appellant and Ghuin Devi was widow of the testator whereas Dolma Devi, Teji Devi and Hira Devi were his daughters. Learned Appellate Court also held that the defendant did not adduce any material on record to substantiate that the testator was of unsound mind at the time of execution of the ''Will'' dated 31.12.1997. No medical officer was examined in this regard by the defendant and the ''Will'' could not be said to be shrouded by suspicious circumstances by merely stating that a person was ill. In fact after detailed discussion of the material placed on record by the respective parties and the contentions in the appeal, the learned Appellate Court, (while observing that ''Will'' Exhibit PW3/A dated 31.12.1997 shall not affect the legal right, title and interest of Sumitra Devi, daughter of the deceased-testator as she was not a party to the case) upheld the judgment and decree passed by the learned trial Court. The findings so returned by both the Courts below are under challenge in the present appeal.

10. According to Mr. Rajnish K. Lal, both the learned Courts below has erred in not appreciating that ''Will'' Exhibit PW-3/A was not proved on record by the plaintiffs in accordance with law. Mr. Lal submitted that because the real daughter of the testator was excluded by him from his ''Will'', this shrouded the ''Will'' with suspicious circumstances and accordingly the initial onus to prove that the ''Will'' in issue was a valid ''Will'' was on the propounder which in fact the propounder had

failed to discharge. He also argued that both the learned Courts below have erred in holding that ''Will'' Exhibit DW- 2/A was not duly proved and this finding returned by both the learned Courts below was not in conformity with the material on record. He also argued that the findings returned by both the learned Court below also stood vitiated on account of order dated 18.06.2001 disallowing the examination of Expert witness to disprove ''Will'' Exhibit PW-3/A. No arguments were addressed on substantial question of law No. 4.

11. Mr. B.C. Verma, learned counsel for respondents No. 2 to 4, on the other hand, argued that there was no merit in the present appeal and the findings returned by both the learned Courts below warrants no interference. He submitted that ''Will'' Exhibit PW-3/A stood duly proved in accordance with provisions of Indian Succession Act and similarly the ''Will'' propounded by defendant stood rightly disbelieved by both the Courts below. Mr. Verma also submitted that the execution of the ''Will'' stood proved by the plaintiff witnesses wherein it has come on record that the ''Will'' was scribed as per the free volition of the testator who thereafter had appended his signatures on the same in the presence of witnesses which fact stood proved by the testimonies of PW3 Damodar Singh and PW4 Tabe Ram, both attesting witnesses to the ''Will'' Exhibit PW-3/A.

12. I have heard learned counsel for the parties and also gone through the records of the case as well as judgments passed by both the courts below.

13. The marginal witnesses to ''Will'' Exhibit PW-3/A are Damodar Singh and Tabe Ram. Both these witnesses have entered the witness box as PW3 and PW4 respectively. PW3 Damodar Singh has categorically stated that the ''Will'' Exhibit PW-3/A was scribed by deed writer and after the ''Will'' was prepared it was firstly signed by the testator and thereafter the same was signed by the attesting witnesses. He also stated that the ''Will'' in issue was issued by the testator of his free volition. PW4 Tabe Ram also deposed to the same effect. Though, these two witnesses were subjected to lengthy cross-examination but nothing material could be elucidated by the defence to suggest that the ''Will'' in issue was not properly executed or was shrouded with any suspicion. The defendant has not been able to place any material on record from which it could be inferred that the testator had not executed ''Will'' Exhibit PW-3/A on his free volition or that he was not in a sound position of mind when the ''Will'' in issue was executed by him.

14. Section 63 of the Indian Succession Act clearly lays down that every testator shall execute his ''Will'' according to the following rules:-

(a) The testator shall sign or shall affix his mark to the ''Will'', or it shall be signed by some other person in his presence and by his direction.

(b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a ''Will''.

(c) The ''Will'' shall he attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the ''Will'' or has seen some other person sign the ''Will'', in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the ''Will'' in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

15. The Hon''ble Supreme Court in Pentakota Satyanarayana and others v. Pentakota Seetharatnam and others, (2005) 8 Supreme Court Cases 67 has held that though the initial onus to prove the ''Will'' is on the propounder of the ''Will'' but thereafter it shifts to the party alleging undue influence or coercion in execution of the ''Will''.

16. In my considered view in the present case the appellant has not brought any material on record from where it could establish that ''Will'' Exhibit DW2/A was not a valid ''Will'' but was a result of either a fraud or misrepresentation of undue influence exercised by the propounder of the ''Will'' on its testator.

17. It has been held by Hon''ble Supreme Court in H. Venkatachala Iyengar v. B.N. Thimmajamma and others, AIR 1959 Supreme Court 443 as under:-

"21. Apart from the suspicious circumstances to which we have just referred in some cases the ''Will''s propounded disclose another infirmity. Propounders themselves take a prominent part in the execution of the wills which confer on them substantial benefits. If it is shown that the propounder has taken a prominent part in the execution of the will and has received substantial benefit under it, that itself is generally treated as a suspicious circumstance attending the execution of the will and the propounder is required to remove the said suspicion by clear and satisfactory evidence. It is in connection with wills that present such suspicious circumstances that decisions of English Courts often mention the test of the satisfaction of judicial conscience. It may be that the reference to judicial conscience in this connection is a heritage from similar observations made by ecclesiastical Courts in England when they exercised jurisdiction with reference to wills; but any objection to the use of the word ''conscience'' in this context would, in our opinion, be purely technical and academic, if not pedantic. The test merely emphasizes that, in determining the question as to whether an instrument produced before the Court is the last ''Will'' of the testator, the Court is deciding a solemn question and it must be fully satisfied that it had been validly executed by the testator who is no longer alive."

18. The Hon''ble Supreme Court in Mahesh Kumar (dead) by LRs v. Vinod Kumar and others (2012) 4 Supreme Court Cases 387, has recapitulated the said legal position and relevant paras of the said judgment are quoted herein below:-

28. In one of the earliest judgments in H. Venkatachala Iyengar v. B. N. Thimmajamma, the three Judge Bench noticed the provisions of Sections 45, 47, 67 and 68 of the Indian Evidence Act, 1872 and Sections 59 and 63 of the 1925 Act and observed: (AIR pp. 451-52, paras 18-21)

"18. ..... Section 63 requires that the testator shall sign or affix his mark to the will or it shall be signed by some other person in his presence and by his direction and that the signature or mark shall be so made that it shall appear that it was intended thereby to give effect to the writing as a will. This section also requires that the will shall be attested by two or more witnesses as prescribed. Thus the question as to whether the will set up by the propounder is proved to be the last will of the testator has to be decided in the light of these provisions. Has the testator signed the will? Did he understand the nature and effect of the dispositions in the will? Did he put his signature to the will knowing what it contained? Stated broadly it is the decision of these questions which determines the nature of the finding on the question of the proof of wills. It would prima facie be true to say that the will has to be proved like any other document except as to the special requirements of attestation prescribed by Section 63 of the Indian Succession Act. As in the case of proof of other documents so in the case of proof of wills it would be idle to expect proof with mathematical certainty. The test to be applied would be the usual test of the satisfaction of the prudent mind in such matters.

19. However, there is one important feature which distinguishes wills from other documents. Unlike other documents the will speaks from the death of the testator, and so, when it is propounded or produced before a court, the testator who has already departed the world cannot say whether it is his will or not; and this aspect naturally introduces an element of solemnity in the decision of the question as to whether the document propounded is proved to be the last will and testament of the departed testator. Even so, in dealing with the proof of ''Will''s the court will start on the same enquiry as in the case of the proof of documents. The propounder would be called upon to show by satisfactory evidence that the will was signed by the testator, that the testator at the relevant time was in a sound and disposing state of mind, that he understood the nature and effect of the dispositions and put his signature to the document of his own free will. Ordinarily when the evidence adduced in support of the will is disinterested, satisfactory and sufficient to prove the sound and disposing state of the testator''s mind and his signature as required by law, courts would be justified in making a finding in favour of the propounder. In other words, the onus on the propounder can be taken to be discharged on proof of the essential facts just indicated.

20. There may, however, be cases in which the execution of the will may be surrounded by suspicious circumstances. The alleged signature of the testator may be very shaky and doubtful and evidence in support of the propounder''s case that the signature, in question is the signature of the testator may not remove the doubt

created by the appearance of the signature; the condition of the testator''s mind may appear to be very feeble and debilitated; and evidence adduced may not succeed in removing the legitimate doubt as to the mental capacity of the testator; the dispositions made in the ''Will'' may appear to be unnatural, improbable or unfair in the light of relevant circumstances; or, the will may otherwise indicate that the said dispositions may not be the result of the testator''s free will and mind. In such cases the court would naturally expect that all legitimate suspicions should be completely removed before the document is accepted as the last will of the testator. The presence of such suspicious circumstances naturally tends to make the initial onus very heavy; and, unless it is satisfactorily discharged, courts would be reluctant to treat the document as the last ''Will'' of the testator. It is true that, if a caveat is filed alleging the exercise of undue influence, fraud or coercion in respect of the execution of the will propounded, such pleas may have to be proved by the caveators; but, even without such pleas circumstances may raise a doubt as to whether the testator was acting of his own free will in executing the will, and in such circumstances, it would be a part of the initial onus to remove any such legitimate doubts in the matter.

21. Apart from the suspicious circumstances to which we have just referred, in some cases the wills propounded disclose another infirmity. Propounders themselves take a prominent part in the execution of the wills which confer on them substantial benefits. If it is shown that the propounder has taken a prominent part in the execution of the will and has received substantial benefit under it, that itself is generally treated as a suspicious circumstance attending the execution of the will and the propounder is required to remove the said suspicion by clear and satisfactory evidence. It is in connection with wills that present such suspicious circumstances that decisions of English courts often mention the test of the satisfaction of judicial conscience. It may be that the reference to judicial conscience in this connection is a heritage from similar observations made by ecclesiastical courts in England when they exercised jurisdiction with reference to wills; but any objection to the use of the word "conscience" in this context would, in our opinion, be purely technical and academic, if not pedantic. The test merely emphasizes that, in determining the question as to whether an instrument produced before the court is the last will of the testator, the court is deciding a solemn question and it must be fully satisfied that it had been validly executed by the testator who is no longer alive." (emphasis supplied)

29. The ratio of H. Venkatachala Iyengar''s case was relied upon or referred to in Rani Purnima Devi v. Kumar Khagendra Narayan Deb, Shashi Kumar Banerjee v. Subodh Kumar Banerjee, Surendra Pal v. Saraswati Arora, Seth Beni Chand v. Kamla Kunwar, Uma Devi Nambiar v. T.C. Sidhan, Sridevi v. Jayaraja Shetty, Niranjan Umeshchandra Joshi v. Mrudula Jyoti Rao and S. R. Srinivasa v. S. Padmavathamma.

30. In Jaswant Kaur v. Amrit Kaur the Court analysed the ratio in H. Venkatachala Iyengar case and culled out the following propositions: (Jaswant Kaur case, SCC pp. 373-74, para 10)

"1. Stated generally, a will has to be proved like any other document, the test to be applied being the usual test of the satisfaction of the prudent mind in such matters. As in the case of proof of other documents, so in the case of proof of wills, one cannot insist on proof with mathematical certainty.

2. Since Section 63 of the Succession Act requires a will to be attested, it cannot be used as evidence until, as required by Section 68 of the Evidence Act, one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the court and capable of giving evidence.

3. Unlike other documents, the will speaks from the death of the testator and therefore the maker of the will is never available for deposing as to the circumstances in which the will came to be executed. This aspect introduces an element of solemnity in the decision of the question whether the document propounded is proved to be the last will and testament of the testator. Normally, the onus which lies on the propounder can be taken to be discharged on proof of the essential facts which go into the making of the will.

4. Cases in which the execution of the will is surrounded by suspicious circumstances stand on a different footing. A shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the will under which he receives a substantial benefit and such other circumstances raise suspicion about the execution of the will. That suspicion cannot be removed by the mere assertion of the propounder that the will bears the signature of the testator or that the testator was in a sound and disposing state of mind and memory at the time when the will was made, or that those like the wife and children of the testator who would normally receive their due share in his estate were disinherited because the testator might have had his own reasons for excluding them. The presence of suspicious circumstances makes the initial onus heavier and therefore, in cases where the circumstances attendant upon the execution of the will excite the suspicion of the court, the propounder must remove all legitimate suspicions before the document can be accepted as the last will of the testator.

5. It is in connection with wills, the execution of which is surrounded by suspicious circumstances that the test of satisfaction of the judicial conscience has been evolved. That test emphasises that in determining the question as to whether an instrument produced before the court is the last will of the testator, the court is called upon to decide a solemn question and by reason of suspicious circumstances the court has to be satisfied fully that the will has been validly executed by the

testator.

6. If a caveator alleges fraud, undue influence, coercion etc. in regard to the execution of the will, such pleas have to be proved by him, but even in the absence of such pleas, the very circumstances surrounding the execution of the will may raise a doubt as to whether the testator was acting of his own free will. And then it is a part of the initial onus of the propounder to remove all reasonable doubts in the matter."

31. In Uma Devi Nambiar v. T.C. Sidhan, the Court held that active participation of the propounder/beneficiary in the execution of the will or exclusion of the natural heirs cannot lead to an inference that the will was not genuine. Some of the observations made in that case are extracted below: (SCC pp. 333-34, para 16)

"16. A Will is executed to alter the ordinary mode of succession and by the very nature of things, it is bound to result in either reducing or depriving the share of natural heirs. If a person intends his property to pass to his natural heirs, there is no necessity at all of executing a Will. It is true that a propounder of the Will has to remove all suspicious circumstances. Suspicion means doubt, conjecture or mistrust. But the fact that natural heirs have either been excluded or a lesser share has been given to them, by itself without anything more, cannot be held to be a suspicious circumstance especially in a case where the bequest has been made in favour of an offspring. As held in P.P.K. Gopalan Nambiar v. P.P.K. Balakrishnan Nambiar it is the duty of the propounder of the Will to remove all the suspected features, but there must be real, germane and valid suspicious features and not fantasy of the doubting mind. It has been held that if the propounder succeeds in removing the suspicious circumstance, the court has to give effect to the Will, even if the Will might be unnatural in the sense that it has cut off wholly or in part near relations. (See Pushpavathi v. Chandraraja Kadamba.) In Rabindra Nath Mukherjee v. Panchanan Banerjee it was observed that the circumstance of deprivation of natural heirs should not raise any suspicion because the whole idea behind execution of the ''Will'' is to interfere with the normal line of succession and so, natural heirs would be debarred in every case of ''Will. Of course, it may be that in some cases they are fully debarred and in some cases partly."

(emphasis supplied)

The same view was reiterated in Pentakota Satyanarayana v. Pentakota Seetharatnam (supra).

19. The Hon''ble Supreme Court in Pentakota Satyanarayana and others v. Pentakota Seetharatnam and others, (2005) 8 Supreme Court Cases 67 held as under:-

"25. It is settled by a catena of decisions that any and every circumstance is not a suspicious circumstance. Even in a case where active participation and execution of

the Will by the propounders/beneficiaries was there, it has been held that by itself is not sufficient to create any doubt either about the testamentary capacity or the genuineness of the Will. It has been held that the mere presence of the beneficiary at the time of execution would not prove that the beneficiary had taken prominent part in the execution of the Will. This is the view taken by this Court in Sridevi & Ors v. Jayaraja Shetty & Ors. In the said case, it has been held that the onus to prove the Will is on the propounder and in the absence of suspicious circumstances surrounding the execution of the Will proof of testamentary capacity and the proof of signature of the testator as required by law not be sufficient to discharge the onus. In case, the person attesting the Will alleges undue influence, fraud or coercion, the onus Will be on him to prove the same and that as to what suspicious circumstances which have to be judged in the facts and circumstances of each particular case."

20. Therefore, it is apparent and evident from the discussion made herein above as well as from the ratio of the judgments referred to herein above that ''Will'' Exhibit PW-3/A was a validly executed document by its testator in favour of the plaintiffs. The findings returned in this regard by both the learned Courts below are based on correct appreciation of evidence on record both ocular as well as documentary. Similarly, in my considered view, the defendant has not been able to substantiate that ''Will'' propounded by her Exhibit DW- 2/A was proved in accordance with law. Even otherwise this issue becomes redundant in view of the fact that ''Will'' Exhibit PW-3/A is subsequent in time and is the last ''Will'' of the testator. Therefore, it cannot be said that the finding returned to the effect by both the learned Courts below that ''Will'' Exhibit PW-3/A was duly proved in accordance with law, was a result of misreading of the evidence on record. Substantial question of law No. 1 is answered accordingly. As has been mentioned above, no arguments were advanced on substantial question of law No. 4. Therefore, in my considered view, there is neither any infirmity nor any perversity with the findings which have been recorded with regard to the validity of the ''Will'' Exhibit PW-3/A by both the learned Courts below and accordingly, the present appeal being devoid of any merit is dismissed with costs. Pending application(s), if any, also stands disposed of.