



Unreasonable Exclusion Of Legal Heirs May Undermine The Will's Authenticity

Author by: Lokesh Bhola, Managing Partner and Apeksha Kushwaha, Associate

The execution of a Will is intended to provide testamentary certainty and ensure that the testator's final wishes are duly honoured posthumously. However, when a Will conspicuously excludes a close natural heir—such as a spouse—without any cogent explanation, it gives rise to legitimate suspicions regarding its authenticity and the voluntariness of its execution. Such unexplained disinheritance may prompt judicial scrutiny as to whether the testament genuinely reflected the free will and informed intention of the testator or whether it was procured through undue influence, coercion, or fraud. In such circumstances, the judicial inquiry transcends the mere formal compliance with legal requirements, such as attestation and registration, and shifts towards examining the surrounding circumstances to ascertain the testator's mental state, the presence of suspicious circumstances, and the overall fairness of the testamentary disposition, thereby ensuring that the ends of justice are served.

In a landmark judgment delivered on 17 July 2025 in *Gurdial Singh (Dead) Through LR v. Jagir Kaur (Dead) and Another Etc.*¹, the Hon'ble Supreme Court of India elucidated the judicial parameters for determining the validity and genuineness of a testamentary instrument. The pivotal question before the Court was whether a Will that entirely excludes any reference to the testator's legally wedded spouse, without furnishing any justification for such exclusion, could withstand judicial scrutiny. The Division Bench comprising Hon'ble Mr. Justice Sanjay Karol and Hon'ble Mr. Justice Joymalya Bagchi held that the deliberate omission of a natural heir, particularly the spouse, without assigning any plausible reason, constitutes a grave suspicious circumstance. The Court observed that such an omission has the potential to taint the Will and render it legally unsustainable, unless satisfactorily explained by the propounder through cogent and credible evidence.

The factual matrix of the case pertains to Maya Singh, the recorded owner of agricultural land admeasuring 67 Kanals and 4 Marlas. Upon his demise in the year 1991, the revenue records were mutated in favour of his widow, Smt. Jagir Kaur. Subsequently, the appellant, Gurdial Singh—who is the nephew of the deceased—sought to propound a registered Will dated 16.05.1991, purportedly executed by Maya Singh, whereby the entire estate was bequeathed to him, completely excluding the testator's wife from any share or reference.

The learned Trial Court accepted the Will as genuine and consequently declared the appellant to be the rightful successor to the estate. However, in appeal, the Hon'ble High Court reversed the findings of the Trial Court, holding the Will to be surrounded by suspicious circumstances. The High Court specifically noted the complete absence of any mention or exclusion of the testator's wife in the purported Will as a material infirmity, thereby casting serious doubt on its authenticity and voluntariness.

The Hon'ble Supreme Court, while adjudicating upon the matter, extensively reiterated and applied the principles enunciated in *Jaswant Kaur v. Amrit Kaur*² and *H. Venkatachala Iyengar v. B.N. Thimmajamma*³, wherein it was categorically held that a testamentary instrument must not only comply with the procedural requirements of due execution under law but must also be devoid of any suspicious circumstances that may cast doubt on its genuineness. The Court emphasized that the burden of dispelling such suspicious circumstances rests solely upon the propounder of the Will, who must establish, by cogent and credible evidence, that the Will was the result of the free and

¹ 2025 INSC 866

² (1977) 1 SCC 369

³ 1959 Supp (1) SCR 426



conscious volition of the testator. In particular, the Court noted that the unexplained disinheritance of a legally wedded spouse—especially one who resided with the testator until his demise—and the complete omission of any reference to her in the testament constitutes a significant suspicious circumstance. In such cases, it becomes imperative for the Court to scrutinize the circumstances surrounding the execution of the Will to ascertain whether it was executed with the free will and sound disposing mind of the testator. The Hon'ble Bench accordingly relied upon the aforementioned binding precedents to fortify its findings on the validity and authenticity of the impugned Will as follows:

"A Will has to be proved like any other document... the onus lies on the propounder not only to prove due execution but dispel from the mind of the court, all suspicious circumstances... Only when the propounder dispels the suspicious circumstances and satisfies the conscience of the court that the testator had duly executed the Will out of his free volition without coercion or undue influence, would the Will be accepted as genuine...non-mention of 1st respondent or the reasons for her disinheritance in the Will, is an eloquent reminder that the free disposition of the testator was vitiated by the undue influence of the appellant."

Jagir Kaur, in her deposition, asserted that she was the legally wedded spouse of the deceased, Maya Singh, and had been cohabiting with the deceased up until the time of his death. She further established that she was the nominated beneficiary for the receipt of his pension, thereby substantiating the existence of a continuing marital relationship. Notwithstanding these undisputed facts, the purported Will failed to make any reference to her whatsoever, which the Court noted as a material omission, casting serious doubt on whether the document was executed by the testator out of his own free will and volition.

Furthermore, it was brought to the Court's attention that the appellant, Gurdial Singh, had in his pleadings gone to the extent of disputing the very marital status of Smt. Jagir Kaur vis-à-vis the deceased. This conduct was viewed by the Court as indicative of a possible ulterior motive to eliminate her from any claim to the estate, thereby strengthening the inference of suspicious circumstances surrounding the execution of the alleged Will.

The Hon'ble Court observed that while the disinheritance of legal heirs in a testamentary disposition is not per se impermissible or unusual, such exclusion, when effected without any accompanying justification—particularly in the case of a spouse—assumes the character of a suspicious circumstance warranting closer judicial scrutiny. The complete omission of Smt. Jagir Kaur, the testator's legally wedded wife, from the contents of the alleged Will, without any explanation or reference, could not be construed as a mere inadvertence or oversight. Rather, the Court held that such a significant exclusion, in the absence of cogent explanation, militates against the presumption of free and voluntary execution of the testamentary instrument.

Placing reliance upon the decisions in *Ram Piari v. Bhagwant*⁴, *Indu Bala Bose v. Manindra Chandra Bose*⁵, and *Leela Rajagopal v. Kamala Menon Cocharan*⁶, the Hon'ble Court reaffirmed the settled legal position that the presence of suspicious circumstances surrounding the execution of a Will necessitates a heightened degree of judicial scrutiny. In such cases, the burden lies squarely upon the propounder to dispel all doubts by leading clear, cogent, and convincing evidence to establish the genuineness of the Will. The Court underscored that unless such suspicious circumstances are satisfactorily explained, the testamentary document cannot be upheld as valid in the eyes of law as follows:

"None of the courts paid any attention... probably because they were swayed with due execution even when this Court in Venkatachaliah case... had held that, proof of signature

⁴ (1993) 3 SCC 364

⁵ (1982) 1 SCC 20

⁶ (2014) 15 SCC 570



raises a presumption about knowledge but the existence of suspicious circumstances rebuts it..."

"Any and every circumstance is not a 'suspicious' circumstance... A circumstance would be 'suspicious' when it is not normal or is not normally expected in a normal situation"

"Unusual features appearing in a will or the unnatural circumstances surrounding its execution will definitely justify a close scrutiny before the same can be accepted... It is the overall assessment of the court... that matters."

The Court observed that the Will in question was vague and lacking in clarity, and appeared more indicative of the volition of the nephew than that of the testator, Maya Singh. Notably, the Will made no mention of the testator's wife, who is a natural heir, and no reasons were provided for her exclusion. This omission, coupled with the surrounding circumstances, gave rise to a strong presumption of undue influence. The Court accordingly held that the Will did not represent the free, voluntary, and informed decision of the testator.

The Hon'ble Supreme Court, upon a comprehensive consideration of the factual matrix, legal principles, and evidentiary material on record, affirmed the judgment rendered by the Punjab and Haryana High Court. The appeals preferred by the appellant, Gurdial Singh, were dismissed, thereby upholding the finding that the Will dated 16.05.1991 was not executed by the testator with a free, sound, and independent disposing mind. The Court underscored that the judicial scrutiny in matters pertaining to testamentary instruments is not confined to a mere verification of due execution, attestation, or registration. Rather, it is incumbent upon the Court to ascertain whether the Will embodies the true, voluntary, and conscious intention of the testator, uninfluenced by coercion, fraud, or undue influence.

In cases where close family members, particularly a spouse, are entirely excluded from a testamentary disposition without any cogent or plausible explanation, the Court observed that such omission, if unexplained, raises grave doubts regarding the genuineness and authenticity of the Will. The Hon'ble Supreme Court reiterated that the test for determining the validity of a Will extends beyond mere procedural compliance and encompasses considerations of substantive fairness. The judgment affirms that the satisfaction of the judicial conscience is imperative, particularly in the presence of suspicious circumstances or dispositions that appear unnatural or contrary to the normal course of human conduct.

The judgment of the Hon'ble Supreme Court in *Gurdial Singh (Dead) Through LR v. Jagir Kaur (Dead) and Another (supra)* serves as a significant reaffirmation of the legal principle that the authenticity of a Will must be established not merely through procedural compliance but by dispelling all suspicious circumstances surrounding its execution. The unexplained exclusion of a legally wedded spouse—particularly one who cohabited with the testator until death—was held to be a material irregularity, casting serious doubt on the voluntariness of the testament. The Court's ruling underscores the judiciary's vital role in safeguarding the integrity of testamentary dispositions by ensuring that they reflect the true, free, and conscious intent of the testator, uninfluenced by coercion or undue influence. This decision fortifies the jurisprudence on Wills by highlighting that fairness, reasonableness, and the satisfaction of judicial conscience are essential in upholding the sanctity of such instruments.
