



2025:DHC:1573



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 07th MARCH, 2025

IN THE MATTER OF:

+ **CS(OS) 294/2017**

SH. DALIP PURI

.....Plaintiff

Through: Mr. Raman Kapur, Senior Advocate
with Mr. Dhiraj Sachdeva and Mr.
Aviral Tiwari, Advocates.

versus

MRS. RITU MALHOTRA

.....Defendant

Through: Mr Amarjit Singh Bedi, Ms. Surekha
Raman, Mr Varun Chandiok, Ms.
Riya Seth & Mr Yashwant
Sanjenbam, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present suit is one for partition, possession, permanent injunction, and mandatory injunction.
2. The Plaintiff prays for partition of the moveable and immoveable assets left behind their parents.
3. Shorn of unnecessary details, the facts leading to the present suit are as under:-
 - a. The present suit pertains to a dispute between the Plaintiff and the Defendant, who are twin siblings and the legal heirs of Late Brigadier Surinder Kumar Puri and Mrs. Versha Puri.
 - b. Brigadier Surinder Kumar Puri served in the Indian Army for over three decades and retired in or around the year 1983. Mrs. Versha Puri was a homemaker. The couple was married in the 1950s, and



the Plaintiff and the Defendant were born on 20th August 1958 in New Delhi.

- c. In the early 1960s, Brigadier Surinder Kumar Puri purchased a residential property bearing No. A-1/144, Safdarjung Enclave, New Delhi.
- d. The Plaintiff completed his education in 1980 and commenced employment with HSBC.
- e. The Defendant was married in or around 1988-1989 to Mr. Alok Malhotra.
- f. In the year 2000, Mrs. Versha Puri was diagnosed with pancreatic cancer. Thereafter, Brigadier Surinder Kumar Puri and Mrs. Versha Puri relocated to Singapore for her medical treatment, where they resided with the Plaintiff. As Mrs. Versha Puri did not possess health insurance in Singapore, it is stated that the Plaintiff bore the entire cost of her treatment. She subsequently returned to India in early 2005 and passed away later that year at Apollo Hospital, Delhi.
- g. It is stated that following the demise of Mrs. Versha Puri, Brigadier Surinder Kumar Puri continued to reside with the Plaintiff in Singapore. In 2008, the Plaintiff was relocated to London as part of his employment with HSBC, and Brigadier Surinder Kumar Puri accompanied him.
- h. It is stated that in 2007-2008, the Plaintiff transferred certain amounts to Brigadier Surinder Kumar Puri for the purpose of purchasing an agricultural plot.
- i. It is stated that in 2009, the Defendant's son moved to Singapore and resided at the Plaintiff's property there.



- j. On 11th December 2011, the Plaintiff solemnized a registered marriage with Ms. Sapna Moorjani, a British citizen, in London.
- k. After 2012, Brigadier Surinder Kumar Puri's health deteriorated, and he was hospitalized on multiple occasions in India and abroad due to various ailments, including Bronchial Asthma with Chronic Respiratory Failure, Vascular Dementia, Bladder Carcinoma, Enlarged Prostate, and Seizure Disorder. The Plaintiff states that these medical conditions significantly impaired his father's mental and physical capacity. It is also stated that during this time the Defendant was alone taking care of their father.
- l. It is stated that in November 2016, the Plaintiff traveled to India to meet his father. However, despite repeated attempts, he was unable to contact either the Defendant or their father. Subsequently, on 16th December 2016, the Plaintiff lodged a police complaint at Police Station, Sarojini Nagar. In response, the Defendant appeared before the police authorities and disclosed that Brigadier Surinder Kumar Puri had passed away on 8th May 2016 at Vikram Hospital, Bangalore.
- m. Upon learning of his father's demise, the Plaintiff, through his legal counsel, issued a legal notice dated 19th April 2017, asserting his claim to a 50% share in the estate of Brigadier Surinder Kumar Puri and Mrs. Versha Puri.
- n. In response, the Defendant, through her legal counsel, issued a reply on 17 May 2017, contending that Brigadier Surinder Kumar Puri had executed a Will in her favor, thereby bequeathing Property No. A-1/144, Safdarjung Enclave, New Delhi exclusively to her. The said Will was executed on 08.02.2016 and was



thereafter registered in favor of the Defendant with the office of Sub-registrar on 08.05.2016.

o. In view of the above, the Plaintiff has instituted the present suit seeking partition and a declaration of his rightful share in the estate of his late parents, Brigadier Surinder Kumar Puri and Mrs. Versha Puri.

4. The properties in dispute as covered under the Will dated 08.02.2013 reads as under:

"A) In that my house A1/144, Safdarjung Enclave, New Delhi-110029, be given to my daughter Mrs. Ritu Alok Malhotra.

B) That my locker number 137 in the State Bank of Travancore, Bhika Ji Cama Place with all its contents be given to my daughter Mrs. Ritu Alok Malhotra.

C) In that all the money kept in my bank accounts be given to my daughter Mrs. Ritu Alok Malhotra.

D) Anything in the above stated house of mine be given to my daughter Mrs. Ritu Alok Malhotra."

5. The preliminary decree for the agricultural property situated in Pune has been passed *vide* Order dated 24.11.2017.

6. The Defendant states that the father executed a Will on 8th February 2013, which was duly registered on 21st August 2015, bequeathing the property and other assets exclusively to her. Therefore, the Plaintiff has no legal entitlement to the properties covered under the Will dated 08.02.2013.

7. It is submitted that the Plaintiff, a Singapore national since 1994, has resided abroad since 1987 and shared a strained relationship with his father.



The Plaintiff's decision to exclude his father from his wedding in 2011 further worsened their estrangement.

8. The Defendant argues that despite being aware of their father's serious illness, the Plaintiff remained largely uninvolved and failed to provide any personal care. Notably, when the father was diagnosed with cancer and required immediate medical attention, the Plaintiff chose to leave for Pune rather than assist him during surgery.

9. The Defendant further avers that in June 2015, during a meeting in Singapore, the Plaintiff misbehaved with their father and even asked him to vacate the flat. This incident left the father deeply distressed, prompting him to sever ties with the Plaintiff entirely.

10. The Defendant highlights that the father explicitly instructed that the Plaintiff was not to be informed of his demise and that all last rites should be performed by the Defendant alone.

11. Refuting the allegations regarding the testator's infirmity, the Defendant asserts that their father was of sound mind and possessed full testamentary capacity at the time of executing the Will. Medical records from Vikram Hospital, along with his travel history, affirm his mental capacity and ability to make decisions independently.

12. The Defendant states that the Plaintiff has deliberately suppressed material facts and approached the Court with unclean hands. The Plaintiff's purported financial contributions are disputed, and it is asserted that the Defendant bore the entire responsibility of their father's care.

13. Reiterating the validity of the Will, the Defendant submits that it was executed voluntarily and in accordance with the law. Allegations of undue influence, forgery, or coercion are entirely baseless.



14. The Defendant asserts that the Plaintiff has no legal claim over the properties covered by the Will and is merely attempting to usurp the estate through unwarranted litigation.

15. In light of the foregoing, the Defendant prays for the dismissal of the suit with exemplary costs, submitting that the claims of the Plaintiff are frivolous, vexatious, and devoid of merit.

16. The Plaintiff in his replication refutes the preliminary objection raised by the Defendant regarding her name, asserting that she has always identified herself as "Ritu Malhotra" and has only raised the discrepancy now to create confusion. The Defendant's identity is not in dispute.

17. The Plaintiff contends that the suit is maintainable and that the claims made in the Plaint are well-founded in law. The suit is neither frivolous nor liable to be dismissed under Order VII Rule 11 of the CPC.

18. The Plaintiff denies the existence and validity of the Will dated 8th February 2013, asserting that it is a forged and fabricated document. The Plaintiff emphasizes that the father was in poor health during the relevant period and was under constant medical supervision, making it unlikely that he executed any Will.

19. The Plaintiff asserts that the alleged Will is suspicious and lacks legal sanctity. It is pointed out that the Will does not adhere to the requirements under Section 63 of the Indian Succession Act, particularly with respect to attestation.

20. The Plaintiff argues that their father would not have excluded his only son from inheritance, especially given their cordial relationship and the Plaintiff's financial and emotional support to his father. The exclusion of the Plaintiff from the Will raises serious doubts about its authenticity.



21. The Plaintiff further submits that the witnesses to the alleged Will were neither related to nor associated with their father, which poses additional suspicion on its genuineness.
22. The Plaintiff asserts that the Defendant deliberately concealed the father's demise from him and other family members, including the bank and pension authorities, reinforcing the inference that the Will was fraudulent.
23. The Plaintiff provides evidence of financial support extended to their father, including substantial monetary transfers for medical treatment and other expenses. This contradicts the Defendant's assertion that the Plaintiff neglected his father.
24. The Plaintiff denies the Defendant's claim that their father severed ties with him and provides records of continued communication and visits, demonstrating a close relationship.
25. The Plaintiff contends that the Defendant's changing narratives regarding the timeline and nature of their father's wishes further undermine her credibility. The inconsistencies in her statements regarding when and how the Will was executed point to fabrication.
26. The Plaintiff seeks a declaration that the alleged Will is null and void and that he is entitled to a 50% share in the estate of their father. The Plaintiff prays for partition of the property and other assets as per intestate succession under the Hindu Succession Act.
27. In light of the foregoing, the Plaintiff prays for the suit to be decreed in his favour, with costs, and for the estate of the deceased to be divided equitably between the parties.
28. Issues in this case were framed *vide* Order dated 05.04.2018 and are reproduced as under: -



- “a. Whether late Brig. Surinder Kumar Puri died leaving behind his last valid-Will dated 8.2.2013?*
- b. Whether the plaintiff is entitled to the relief of partition of the properties left behind by late Brig. Surinder Kumar Puri, if so, to what extent and for what amount?*
- c. Whether the plaintiff is entitled to the reliefs of injunctions as prayed for?*
- d. Relief.”*

29. The Plaintiff examined seven witnesses. PW1, PW2 and PW4 are bank officials. The purpose of examination of PW1 and PW2 was to produce statement of accounts and documents of the deceased Brigadier Surinder Kumar Puri. PW4 who is a Manager of HSBC Bank, Barakhamba Branch, Connaught Place, New Delhi was examined to demonstrate that the Plaintiff was depositing money regularly in the account of his father to establish that there was cordial relationship between the Plaintiff and his father. PW3 and PW5 are the officials from the Hospitals to produce the medical records of deceased Brigadier Surinder Kumar Puri. PW7 has been examined to substantiate that even after the death of Brigadier Surinder Kumar Puri that the Defendant was operating the bank account of the deceased. PW6 is the Plaintiff himself.

30. The Defendant has examined four witnesses. DW1 being the official from the Sub-Registrar's Office. DW2 and DW3 are the attesting witnesses and DW4 being the Defendant herself.

31. Learned Counsel for the Plaintiff contends that the Will in question is shrouded in suspicious circumstances, casting doubt on its validity. It is argued that one of the attesting witnesses, DW-2, Ms. Sadhana Kumar, is a friend of the Defendant, raising concerns about impartiality.



32. The Plaintiff emphasizes the advanced age of the father, noting that he was 83 years old when the will was purportedly written and 86 years old at the time of its registration. It is submitted that this demonstrates the father's infirmity and raises doubts about his ability to execute the will independently.

33. Attention is drawn to inconsistencies in the testimony of DW-2 and DW-3. DW-2 stated in Court that the Will had already been signed by the father and was not executed in her presence, whereas her affidavit indicates otherwise. The Plaintiff submits that this discrepancy violates the requirements of Section 63 of the Indian Succession Act, which mandates that the testator sign in the presence of the attesting witnesses.

34. The Plaintiff challenges the soundness of the father's mind, relying on Exhibit PW3/1, which contains discharge summaries from 14.08.2013–23.08.2013 and 21.07.2014–24.07.2014. These documents reveal that the father suffered from dementia, seizure disorders, and other ailments that impaired his mental capacity and required assistance with daily activities.

35. It is asserted that the Plaintiff provided significant financial assistance to the father, transferring SGD 169,000 on 26.09.2008 for the purchase of agricultural land in Pune and USD 93,000 on 18.01.2013 for medical treatment. This demonstrates the Plaintiff's continued involvement in the father's welfare despite living abroad.

36. The Plaintiff also places reliance on Kavita Kanwar v. Pamela Mehta & Ors. (2021) 11 SCC 209 to assert their case.

37. The Plaintiff accuses the Defendant of isolating the father from the family. It is alleged that the Defendant failed to inform the Plaintiff or any other family members about the father's demise and did not notify the bank, the pension department, or the army. These actions, it is argued, suggest that



the father was under the Defendant's undue influence when the will was executed.

38. In conclusion, the Plaintiff submits that the father's old age, infirmity, mental health issues, and the Defendant's control over him create a strong inference that the will was executed under suspicious circumstances and cannot be deemed valid.

39. Per contra, learned Counsel for the Defendant contends that the Will is validly executed and free from any suspicion. It is submitted that the Defendant was the sole caretaker of the father, while the Plaintiff lived abroad, first in Singapore (since 1994) and later in London, and rarely visited.

40. It is asserted that the Plaintiff secretly married in 2011 without informing or inviting the father, who only learned of the marriage during a visit to London six months later. This, it is argued, deeply hurt the father and led to estrangement between him and the Plaintiff.

41. The Defendant contends that the will was executed in compliance with legal requirements. Reliance is placed on the testimony of DW-1, Sh. Ranbir Singh, an official from the registrar's office, who stated that while he was not present at the time of attestation, all signatures in such documents are made in the presence of the registrar.

42. DW-3, Advocate Usha Ahluwalia, corroborates this, stating that the will was initially prepared in 2013 as an unsigned document and was subsequently signed by the testator and witnesses in the registrar's presence in 2015. It is emphasized that the will only attains legal enforceability upon registration.

43. The Defendant refutes the Plaintiff's dual claims of forgery and undue influence, arguing that these are mutually exclusive defenses. A document



cannot simultaneously be forged and influenced.

44. The Defendant further submits that the father's mental and physical capacity at the time of executing the will was sound. It is highlighted that the father continued to travel internationally, including as late as 2015, demonstrating his independence and soundness of mind.

45. It is also argued that the Plaintiff's failure to maintain communication with the father between 2013 and 2016, coupled with his decision to leave for Pune and then London prior to the father's surgery, contributed to the estrangement. The Defendant asserts that this lack of a relationship explains why the Plaintiff was not informed of the father's demise.

46. In conclusion, the Defendant argues that the will reflects the father's deliberate decision, made while he was of sound mind, and any allegations of undue influence or suspicious circumstances are baseless.

47. Heard Learned Counsels for the Plaintiff and the Defendant and perused the material on record.

48. The Plaintiff has tried to pick holes in the testimonies of DW2 and DW3 to suggest and contend that there is a major contradiction in the deposition of DW2 and DW3 and the Will has not been proved in accordance with the provisions of the Indian Succession Act and the Indian Evidence Act. The learned Counsel for the Plaintiff has drawn the attention of this Court to Questions No.47 and 73 of DW2 Ms. Sadhana Kumar. It is the contention of the learned Counsel for the Plaintiff that one of the attesting witness namely DW2 has stated that the Will had already been signed when DW2 saw the Will. Whereas DW3 who is the second attesting witness has stated that Brigadier Surinder Kumar Puri first signed the Will followed by DW2 and then DW3. In question No.73, it has been stated by DW2 that first she signed the Will followed by DW3. DW2 and DW3 have



stated that they have gone to the Office of the Registrar and they signed the documents. DW3 has stated that she has seen the father signing the Will in her presence. It cannot be deduced from the deposition of DW2 that the father was not present in the office of the Registrar. The cumulative reading of the deposition of DW2 and DW3 shows that the father was in the office of the Registrar and there were two witnesses. The Will has been signed before the Registrar and attested by the two witnesses. Sections 63 and 68 of the Indian Succession Act have therefore been complied with inasmuch as one of the attesting witnesses has stated categorically that the Will has been signed in the presence of the two attesting witnesses by the testator and there is no major contradiction in the evidence of the second attesting witness in the agreement. The testator has seen the attesting witness attesting the Will and the attesting witnesses have seen the testator put a signature on the Will.

49. The main dispute that arises is whether it is a case of intestate succession or a case of testamentary succession.

50. The Sections which are relevant for adjudication of this case are:

i. Section 63 & 68 of the Indian Succession Act:

“63. Execution of unprivileged Wills.—

Every testator, not being a soldier employed in an expedition or engaged in actual warfare, or an airman so employed or engaged, or a mariner at sea, 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 be 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 acknowledgement of his signature or mark, or 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.”

68. *Witness not disqualified by interest or by being executor.—No person, by reason of interest in, or of his being an executor of, a will, shall be disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.*

ii. Section 114 of the Indian Evidence Act:-

“114. Court may presume existence of certain facts.

The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

The Court may presume –

(e) that judicial and official acts have been regularly performed;

as to illustration (e) -- a judicial act, the regularity of which is in question, was performed under exceptional circumstances;”

51. The Will does not talk of any acrimony between the father and the son, i.e., the Plaintiff; rather the Will does not even mention the son or give any reason as to why he is not included in the Will. However, the fact that the Will is silent as to why the Plaintiff is being excluded is no reason for



this Court to come to a conclusion that the Will is shrouded by suspicious circumstances. In the opinion of this Court, the evidence given by the Defendant remains un-rebutted. The testimony of the Defendant that the father felt betrayed by the Plaintiff and his actions including not being invited to his marriage being the reason not to give the Defendant a share in the property is an acceptable version and this Court has no reason to disbelieve the story of the Defendant.

52. The Plaintiff is contesting the will and thus the onus to prove the unsoundness of mind of the father lies on the Plaintiff. The Plaintiff has not put on record any medical evidence or doctors' examination as a witness to attest to the mental state of the deceased father. The medical reports on discharge merely mention a diagnosis of dementia and other ailments. However, the Plaintiff has not examined the Doctor, or any other testimonials, have been summoned or produced by the Plaintiff, in addition to any medical evidence, to attest to the fact whether the deceased father was not competent to make a Will. This Court is not an expert Doctor to come to a conclusion on the basis of the reports about the extent of dementia from which the father of the Plaintiff was suffering. DW2 and DW3 have stated that he was of sound mind and in fact DW2 stated that the father recognized DW2. A reading of evidence of DW2 and DW3 does not indicate that the father was in such a state of dementia so as not to understand the purport of the Will he was signing. Material on record therefore does not suggest that the father was suffering from a mental illness of such an extent that he did not know as to what was the document he was signing. The Plaintiff has also not examined any independent witness to show that their father was in complete control of his sister. Rather the evidence indicates that it was the sister who was taking care of the father and that can be a sufficient reason to



bequeath the property to the Defendant.

53. The contention of the Plaintiff that the execution of the Will was not validly executed as per Section 63(c) of the Indian Succession Act does not merit acceptance. A Coordinate Bench of this Court in Surender Rana v. State and Ors., **2017 SCC OnLine Del 9892**, has stated as under:-

“6. In my opinion, there is another reason for holding that the Will was duly executed and registered on 21.9.2000 inasmuch as, as per Section 114(e) of the Indian Evidence Act, 1872 courts have to draw a presumption with respect to judicial and official acts being properly performed, and therefore, this Court has to draw a presumption in favour of execution and registration of the Will as the Will is found to be duly registered and proved through the witness from the office of Sub-Registrar Sh. A. Rehman (PW-3) thus showing that the official acts were duly performed by the Sub-Registrar at the time of registration including putting questions on the execution of the Will and its attestation to the testator and to the attesting witnesses of due execution and attestation of the Will.”

54. Relying on the above judgment of a coordinate bench of this court, this court is of the opinion that the will is duly attested following the principle of *animus attestandi*. As is also followed in Anil Kak v. Kumari Sharada Raje and Others, **(2008) 7 SCC 695**:-

“51. Yet again in Niranjan Umeshchandra Joshi v. Mrudula Jyoti Rao [(2006) 13 SCC 433 : (2006) 14 Scale 186] this Court held : (SCC p. 447, paras 32-33)

“32. Section 63 of the Succession Act lays down the mode and manner of execution of an unprivileged will. Section 68 of the Evidence Act postulates the mode and manner of proof of execution of document which is required by law to be attested. It in unequivocal terms states that execution of will must



be proved at least by one attesting witness, if an attesting witness is alive subject to the process of the court and capable of giving evidence. A will is to prove what is loosely called as primary evidence, except where proof is permitted by leading secondary evidence. Unlike other documents, proof of execution of any other document under the Act would not be sufficient as in terms of Section 68 of the Evidence Act, execution must be proved at least by one of the attesting witnesses. While making attestation, there must be an animus attestandi, on the part of the attesting witness, meaning thereby, he must intend to attest and extrinsic evidence on this point is receivable.

*33. The burden of proof that the will has been validly executed and is a genuine document is on the propounder. The propounder is also required to prove that the testator has signed the will and that he had put his signature out of his own free will having a sound disposition of mind and understood the nature and effect thereof. If sufficient evidence in this behalf is brought on record, the onus of the propounder may be held to have been discharged. But, the onus would be on the applicant to remove the suspicion by leading sufficient and cogent evidence if there exists any. In the case of proof of will, a signature of a testator alone would not prove the execution thereof, if his mind may appear to be very feeble and debilitated. However, if a defence of fraud, coercion or undue influence is raised, the burden would be on the caveator. (See *Madhukar D. Shende v. Tarabai Aba Shedage* [(2002) 2 SCC 85] and *Sridevi v. Jayaraja Shetty* [(2005) 2 SCC 784] .) Subject to above, proof of a will does not ordinarily differ from that of proving any other document.”*

*(See also *Adivekka v. Hanamavva Kom Venkatesh* [(2007) 7 SCC 91] .)*



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58. *Yet again in Savithri v. Karthyayani Amma [(2007) 11 SCC 621 : JT (2007) 12 SC 248] this Court held : (SCC p. 630, paras 21-22)*

“21. We do not find in the fact situation obtaining herein that any such suspicious circumstance was existing. We are not unmindful of the fact that the court must satisfy its conscience before its genuineness is accepted. But what is necessary therefor, is a rational approach.

22. Deprivation of a due share to the natural heirs itself is not a factor which would lead to the conclusion that there exist suspicious circumstances. For the said purpose, as noticed hereinbefore, the background facts should also be taken into consideration. The son was not meeting his father. He had not been attending to him. He was not even meeting the expenses for his treatment from 1959, when he lost his job till his death in 1978. The testator was living with his sister and her children. If in that situation, if he executed a will in their favour, no exception thereto can be taken. Even then, something was left for the appellant.”

55. Considering all the facts and evidences as presented, it is to be noted that, the Plaintiff and the father had shared an estranged relationship, and considering the will is only for one property, which the father has bequeathed on the Defendant as she was living with him and taking care of him in the same property, it cannot be said to be suspicious.

56. Excluding one child from the will, when circumstances so show that the execution of the will is valid and there are well founded reasons for the same as discussed, cannot be questioned. As was also held in a judgment of the Apex Court in Ved Mitra Verma v. Dharam Deo Verma, (2014) 15 SCC



578, which reads as under:-

“8. The exclusion of the other children of the testator and the execution of the will for the sole benefit of one of the sons i.e. the respondent, by itself, is not a suspicious circumstance. The property being self-acquired, it is the will of the testator that has to prevail.

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11. Insofar as the capacity of the testator to execute the will is concerned, though arguments have been advanced to show that on account of ill-health the testator was not in a position to realise and comprehend the consequences of his action, what cannot be overlooked is the fact that it is the admitted case of the respondent herein that at the time of the execution of the will, the testator was in Jansath in U.P. in connection with the treatment of his eye ailment. There is no material on record to hold that the testator was suffering from any other kind of physical or mental infirmity which had rendered him incapable of taking a decision with regard to bequeathing of the properties by means of the will in question.”

(emphasis supplied)

57. It is also to be noted that the Plaintiff is well off, has a son and a family of his own abroad, he is well settled. The Defendant, on the other hand was dependant on the father, it is also stated in the plaint by the Plaintiff that the Defendant is separated from her husband and was living with their father in the subject property, it is noteworthy to mention that because she was living with their father at the subject property, she was solely taking care of him, which could be the reason for the decision of the father to bequeath the subject property to the Defendant solely. This court cannot sit in the armchair of the testator and go against the intent of the



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testator himself.

58. Resultantly, the properties covered under the Will dated 08.02.2013 are not available for the Petitioner.

59. List for final decree proceedings *qua* the agricultural property situated at Pune on 20.05.2025.

MARCH 07, 2025

hsk/rj/jp

SUBRAMONIUM PRASAD, J