another decision of the Orissa High Court. We have gone through the judgment. The facts are distinguishable. Moreover, in this judgment the earlier decision was not considered.

(8) For the reasons recorded above, we answer the referred question in favour of the Revenue and against the assessee, in negative. The Tribunal was not right in holding that the share income of Talu Ram from Ganesh Factory should be assessed in the hands of Talu Ram HUF. It should be assessed in the hands of Talu Ram individual. However, there will be no order as to costs.

J.S.T.

Before : J. S. Sekhon & S. S. Rathore, JJ.

MOHINDER AND OTHERS,—*Appellants.*

versus

NAGINA (DECEASED) REPRESENTED BY L.Rs.,—*Respondents.*

Regular Second Appeal No. 1860 *of* 1987.

7th September, 1991.

(*a*) *Indian Succession Act,* 1925—*S.* 63—*Validity of Will—Required to be attested by two or more witnesses each of whom must see the testator sign or affix his mark to the Will and each of witness must sign Will in presence of testator—Not relevant that person who attested Will be shown as attesting witness—Even if witness not shown as attesting witness but proved execution of Will by testator and due attestation by him in terms of S.* 63 *of Act and S.* 68 *of Evidence Act, Will stands proved.*

Held, that a will to be valid is required to be attested by two or more witnesses each of whom must see the testator sign or affix his mark to the will and each of the witness must sign the will in the presence of the testator. It is not relevant that a person who has attested the will, is necessarily to be shown as an attesting witness. Even if the witness is not shown as an attesting witness but he has proved the execution of the will by the testator and due attestation by him in terms of S. 63 and the Indian Succession Act and S. 68 of the Evidence Act, the will stands proved.

(Paras 8 & 9)

(*b*) *Indian Succession Act,* 1925—*Will—Valid execution—There has to be satisfactory evidence on record that executant was of sound*

disposing mind—Statement of scribe and Sub-Registrar cannot be considered to be of attesting witness—Neither thumb impression of executant nor of attesting witness stand proved—Will not proved valid.

Held, that the statements of the scribe and the Sub Registrar, cannot be considered to be of an attesting witness. Both the witnesses have admitted that they did not know the executant. As stated earlier, neither the thumb impressions of the executant nor of the attesting witness stand proved on the record. In view of this, statement of these witnesses is not worth the value of the paper on which they are recorded. For valid execution of the will, there has to be satisfactory evidence on record that the executant was of sound disposing mind.

(Para 15)

JARNAIL SINGH *V.* NARAIN SINGH 1984 R.L.R. 131
LAL SINGH AND ANOTHER *V.* BANT SINGH A.I.R. 1983 (Pb. & Hy.) 384

(OVERRULED)

Regular Second Appeal from the decree of the court of Shri S. R. Bansal, Addl. District Judge, Ambala 4th day of March, 1987 *affirming with costs that of Shri S. K. Kapoor, H.C.S. Addl. Senior Sub Judge, Jagadhri District, Ambala, dated the 1st June,* 1984 *passing a decree for declaration in favour of the plaintiff and against the defendants—to the effect that alleged Will, dated 20th February,* 1978 *is* null and void *and it be deemed that deceased Balwant Singh had died intestate, successions to the suit property which is established to be self acquired property of deceased Balwant Singh, is to open and is to devolue upon his heirs, in terms of Sections* 8, 9 *and* 10 *of the Hindu sucession Act,* 1956 *and leaving the parties to bear their own costs.*

CLAIM : Suit for declaration to the effect that the alleged Will, dated 20th February, 1978 *by Balwant Singh son of Nawal in favour of the defendant No.* 3 *is forged, fictitious, illegal importune and incompetent with a consequential relief of possession of* 1/10*th share of land measuring* 79 *kanals* 2 *marlas situated in village Devdhar, Revenue estate No.* 72 *Tehsil Jagadhari, District Ambala as entered in the jamabandi for the year* 1977-78 *bearing khewat No.* 71 *khatauni No.* 118 *Rectangle No.* 33 *Killa No.* 15/2(0—12)16/1(0—16) *Rectangle No.* 34 *Killa No.* 11(5—16) 19 (6—14) 20 (8—0) *Rectangle No.* 55 *Killa No.* 15 (8—0) 16 (8—0) 17 (8—0) 24 (8—0) 25 (8—0) *Rectangle No.* 80 *Killa No.* 20 10 (0—2), *Rectangle No.* 87 *Killa No.* 25 (8—0) *Rectangle* 88 *Killa No.* 21 (8—0) *Rectangle No.* 211 (0—17) *and* 220 (0—5) *in all* 15 *plots of total area of* 79 *Kanals* 2 *marlas and for possession of* 1/5*th share of Khewat No.* 72. *Khatauni No.* 119 *Rectangle No.* 100 *Killa No.* 5/1 (1—18) *Rectangle No.* 103 *Killa No.* 14/10 (0—2) *in all two kittas measuring* 2 *kanals situated in village—Devdhar, Revenue*

estate No. 72 with all right, title and interest therein under order 7 Rule 1 CPC.

Claim in Appeal : For reversal of the order of both the Courts.

R. K. Chhokar, Advocate, *for the Appellant.*

Y. K. Sharma, Advocate, *for the respondent.*

JUDGMENT

S. S. Rathor, J.

(1) Present respondent—Nagina filed a suit for declaration that the alleged will dated 20th February, 1978 purported to have been executed by his brother Balwant Singh in favour of Sat Pal, appellant is forged, fictitious and not binding on his rights to succeed to the estate left behind by Balwant Singh. Further relief for possession of 1/10th share of land measuring 79 kanals and 2 marlas detailed in the plaint was also sought. Precisely, the plaintiffs' case was that he and his brother Talab (father of Sat Pal. defendant) are the sole surviving lawful heirs to succeed to the estate of deceased Balwant Singh.

(2) The defendants (now appellants) in the suit, contested the claim of the plaintiffs and it was pleaded in the written statement that the will in question is a legally valid document, duly executed by Balwant Singh in favour of Sat Pal defendant. It was further averred that the will was executed by the testator with full disposing mind. In the alternative, it was also pleaded in the written statement that if will is ignored, Sat Pal, defendant is a validly adopted son of deceased Balwant Singh and he alone would succeed to the estate left behind by Balwant Singh deceased being his lawful heir as an adopted son.

(3) Keeping in view the respective pleadings of the parties, the trial court framed issues on different dates but consolidatedly are put as follows :—

1. Whether the plaintiff and Talab alone were entitled to succeed to the property in dispute ? OPP

1-A. Whether the suit property is ancestral ? OPP

1-B. Whether the parties are governed by custom in matters of alienation and succession ? If so, to what effect ? OPP.

2. Whether Balwant Singh, deceased, executed a valid will in favour of defendant No. 3 ? OPD

3. Whether the will in favour of defendant No. 3, is forged, illegal and if so consequent on the grounds mentioned in para No. 5 of the plaint ? OPP.

4. Whether the court fees is sufficient ? OPP

4-A. Whether Sat Pal, defendant, was the adopted son of Balwant Singh, deceased. If so, to what effect ? OPD.

5. Relief.

(4) After full-fledged trial, the trial court recorded a finding that the will in question dated 20th February, 1978 is illegal, forged and in no way adversely affects the rights of the plaintiffs in the land in dispute. The findings on issue Nos. 2 and 3 being co-related, were returned in favour of the plaintiff and against the defendants. In the absence of a registered adoption deed and oral evidence being cryptic, contradictory and untrustworthy, the trial court under issue No. 4, recorded a positive finding that Sat Pal, defendant was not adopted by Balwant Singh. Under issue No. 1-A, it was held that property was not proved to be ancestral and as such, was decided against the plaintiff. Similarly issue No. 1-B was also decided against the plaintiff holding that the parties were not governed by customs in the matter of alienation and succession. However, in view of finding recorded under issue Nos. 2 and 3, suit was decreed by the trial Court holding the will in question to be an invalid and forged document, not affecting the reversionary rights of the plaintiff *qua* estate left behind by his brother Balwant Singh to the extent claimed by the plaintiff in the plaint.

(5) The present appellants, feeling aggrieved from the judgment and decree of the trial Court, prefered an appeal which was dismissed,—*vide* judgment and decree dated 4th March, 1987 of the lower appellate Court. The first appellate Court analytically scrutinised and appreciated the evidence on the record of the case and concurred with the findings recorded by the trial Court on various issues. Of course, the trial Court has not recorded a specific finding under issue No. 1 but as observed by the first appellate

Court, non-recording of finding under issue No. 1 is immaterial because admittedly, on the date of death of Balwant Singh, the plaintiff, Talab (father of present appellants) were the only lawful heirs. This aspect of the case as covered under issue No. 1, was never touched by the parties nor any argument has been advanced by the counsel for the appellants in this Court. Even otherwise, basic controversy involved in the case is the validity of the will in question alleged to have been executed by Balwant Singh deceased in favour of Sat Pal. Thus, finding on issue No. 1 in view of admitted facts as stated above, would be a necessary corollary of the findings to be recorded on issues No. 2 and 3 pertaining to the validity of the will in question, which is Ex. D1 on the record.

The regular second appeal filed in this Court was admitted by brother M. R. Agnihotri, J.,—*vide* order dated 26th November, 1987 in the following terms :—

> "Admitted to DB. Put up before the DB of which J. V. Gupta, J. is a member. Mr. Sharma states that possession of the land in dispute has already been taken by his client. If so, *status quo* be maintained."

(6) The admission order does not make it clear as to why it was ordered to be placed before a Division Bench comprised of Justice J. V. Gupta as a member. Mr. R. K. Chhokar, counsel for the appellants has made a statement at Bar that he had cited two Single Bench judgments reported as *Jarnail Singh* v. *Narain Singh* (1), and *Lal Singh and another* v. *Bant Singh* (2), *both delivered by Justice* J. V. Gupta (as his Lordship then was). He has further stated that the rule laid down in these two judgments was ignored by the Courts below in view of a Supreme Court judgment reported as *M. L. Abdul Jabbar Sahib* v. *H. Venkata Shastri and others* (3). This is how this appeal for final disposal has come up before the present Division Bench.

(7) Mr. Chhokar has assailed the findings of the Courts below under issue Nos. 2 and 3 only on the ground that even though one of the attesting witnesses namely Swaran Singh Lambardar (DW-3) has not supported the execution of the will by the testator and testators'

(1) 1984 RLR 131.
(2) A.I.R. 1983 (Punjab and Haryana) 384.
(3) A.I.R. 1969 S.C. 1147.

identification before the Sub Registrar and another attesting witness namely, Maan Singh, has not been produced during the trial yet the statements of Om Parkash Grover (DW-2) who scribed the will and DW-6 Hukam Chand Gupta, the Sub Registrar, who registered the will, are sufficient in the eye of law to prove the due execution and attestation of the will in question. In support of his contention, he has again placed reliance on the aforesaid two judgments as mentional above and delivered by Justice J. V. Gupta (as he then was).

(8) As stated earlier, both the Courts below, have rejected the will. Still salient facts of the case being worth notice by this Court are that thumb impressions of testator Balwant Singh on the will do not stand proved. No attempt has been made to compare the said thumb impressions of the deceased with any other standard thumb impressions. Similarly, the attesting witness namely, DW-3 Lambardar Swaran Singh has specifically denied not only the execution by the testator and his putting thumb impressions but has also categorically stated that he himself never thumb marked the will as an attesting witness nor he thumb marked the document as an identifying witness before the Sub Registrar. Said Swaran Singh, being Lambardar of the village, his standard thumb impressions would be presumably available in abundence. No attempt has been made to prove his thumb impressions to compare his thmub impression on the will. The statement recorded in the Court has been thumb marked by him and even that thumb impression has not been compared with his thumb impressions on the impugned will. In his statement, he has categorically denied that the will in question was read over to the testator and the testator and thumb marked the same after understanding the contents of the document. He has equally denied that the testator had executed the will in his presence and he attested the document and thumb marked it in the presence of the testator/executant after seeing execution of the will. In order to arrive at a conclusion regarding the validity of a will, it is essential to understand the legal position as to how the execution of a will is to be proved in terms of Section 63 of the Indian Succession Act, which reads as under :—

> "63. Every testator, not being a solicitor employed in an expedition or engaged in actual warfare, (or any 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 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."

A bare perusel of the above provisions of law reveals that a will to be valid is required to be attested by two or more witnesses each of whom must see the testator sign or affix his mark to the will and each of the witness must sign the will in the presence of the testator. The question as to what is the mode of the execution of the will, section 63 of the Indian Succession Act and relevant Section 68 of the Indian Evidence Act, from time to time, have been interpreted but for the sake of authenticity, a judgment of the Supreme Court reported as *Beny Chand* v. *Smt. Kamla Kunwar*, A.I.R. 1977 S.C.; 63 is being reproduced below :—

"There is no substance in the grievence that the proof of the will in this case is incomplete for want of an attesting witness' evidence. Section 68 of the Evidence Act deals with proof of the execution of documents required by law to be attested. It provides that such documents shall not be used as evidence until at least one attesting witness has been called to prove the execution, if there be any attesting witness alive and subject to the process of the court and capable of giving evidence. Since by Section 63 of the Succession Act, 1925 a will has to be attested by two or more witnesses. Section 68 of the Evidence Act would come into play and therefore it was incumbent on the propounder of the will to examine an attesting witness to prove due execution of the will. But this argument overlooks that Dwijendra Nigam is himself one of the

three persons who made their signatures below the thumb impression of Jaggo Bai. None of the three is described in the will as an attesting witness but such labelling is by no statute necessary and the mere description of a signatory to a testamentory document as an attesting witness cannot take the place of evidence showing due execution of the document. By attestation is meant the signing of a document to signify that the attestor is a witness to the execution of the document, and by Section 63(c) of the Succession Act, an attesting witness is one who signs the document in the presence of the executant after seeing the execution of the document or after receiving a personal acknowledgement from the executant as regards the execution of the document. Nigam's evidence shows that he and the other two witnesses saw the testatrix putting her thumbmark on the will by way of execution and that they all signed the will in token of attestation in the presence of the testatrix, after she had affixed her thumbmark on the will."

(9) It is clear in this case that a particular witness had not been labelled as an attesting witness but had signed the will. He made a statement in the Court proving the due execution of the will by the testator and attestation by him. The Court has observed that it is not relevant that a person who has attested the will, is necessarily to be shown as an attesting witness. Even if the witness is not shown as an attesting witness but he has proved the execution of the will by the testator and due attestation by him in terms of Section 63 of the Indian Succession Act and Section 68 of the Evidence Act, the will stands proved. In the light of these facts, in the aforesaid judgment, the Hon'ble Supreme Court has interpreted the relevant provisions of law.

(10) If the statement of DW-3 Swaran Singh, Lambardar as discussed above, is analytically examined in the light of the provisions of law as contained in Section 63 of the Indian Succession Act and Section 68 of the Indian Evidence Act as elucidated above, no execution of the will in question and its attestation by one of the attesting witnesses stand proved on record.

(11) Now adverting to the aforesaid two judgments of brother J. V. Gupta, J. (as he then was), as referred to by the counsel for the appellants, it is sufficient to say that the law has not been correctly

laid down in the said judgments. An unreported case i.e. Regular Second Appeal No. 1956 of 1968 (Dharam Singh *v.* Smt. Aso etc.), was also decided by Justice J. V. Gupta (as he then was),—*vide* his judgment dated 20th December, 1979. In this case, the trial Court upheld the validity of the registered will inspite of the fact that only attesting witness Jot Ram did not support the execution of the will. Said Jot Ram had further testified that the testator was not of sound disposing mind at the time of execution of the will and that neither he signed in the presence of the testator nor the testator signed in his, presence or other attesting witness. No other witness was produced and the trial Court solely relied upon the evidence of the scribe of the will and accepting the statements of scribe and Sub-Registrar as an attesting witnesses to the will, the trial Court held that the will had been duly executed. But in appeal, said view of the trial Court was rejected and it was held that statement of aforesaid Jot Ram has to be completely discarded *qua* proving the execution and attestation by the testator and attesting witnesses in terms of Section 63 of the Indian Succession Act and Section 68 of the Indian Evidence Act. If there is no compliance of Section 68 of the Evidence Act, no advantage can be taken of Section 71 of the said Act which permits the execution of the will to be proved by other evidence, if the attesting witnesses deny or do not recollect the factum of execution of the will. Reliance was placed on the observations made in *Vishnu Ramkrishna and others* v. *Nathu Vithal and others* (4). The appellate Court in the said case, out-rightly rejected the contention that the statement of the scribe and that of the Sub Registrar to be sufficient evidence as the provisions of Section 71 of the Evidence Act can be availed of in the form of other evidence to prove the execution and attestation even if requirements of Section 68 of the said Act have not been complied with. With this background of factual and legal position and interpretation of the aforementioned provisions of law, the appeal was allowed rejecting the will as not duly proved in accordance with law and the matter came to this Court in regular second appeal which was also disposed of by Justice J. V. Gupta (as he then was). Justice J. V. Gupta, while upholding the view of the first appellate Court held that statement of Jot Ram as discussed above, does not prove either execution of the will or its attestation by him and no other attesting witness was examined. On the point of relevancy and evidentiary value of the statements of the scribe and the Sub Registrar, the finding of the first appellate Court was

(4) A.I.R. 1949 Bombay 266.

affirmed with vehemence. In that case, it was contended before Justice J. V. Gupta (as he then was) that the Sub Registrar registered the will and made his endorsement thereon and while appearing as a witness, fully proved the endorsement made on the document wherein execution of the will by the testator and attestation by the attesing witness is ! specifically endorsed. It was argued that under these circumstances, Sub Registrar having been examined in the Court, would be deemed to be an attesting witness as contemplated under Section 63 of the Indian Evidence Act. In support of this contention, reliance was placed in that case on a case *Pt. Parshotam Ram* v. *L. Kesho Das and another* (5), and *Kunwar Surendra Bahadur Singh and others* v. *Thakur Singh and others* (6). It is apparent that the later authority had been relied upon by Lahore High Court. The learned brother J. V. Gupta J, rejected the contention raised by the counsel for the appellant observing that the statement of the Sub Registrar made under the Indian Registration Act cannot be said to be an attestation as envisaged by Section 63 of the Hindu Succession Act. In support of his view, the learned Single Judge placed strong reliance upon *Giria Datt Singh* v. *Gongotri Datt Singh* (7), *M. L. Abdul Jabbar Sahih* v. *H. Venkata Shastri and Sons and others* (8), *and Harish Chandra Sahu* v. *Basant Kumar Sahu and others* (9). In *Girja Datt Singh's* case (supra), it has been held that it cannot be presumed from the mere signatures of two persons appearing at the foot of the endorsement of registration of a will that they had appended their signatures to the document as attesting witnesses or can be construed to have done so in their capacity as attesting witnesses. Section 68, Evidence Act requires an attesting witness to be called as a witness to prove the due execution and attestation of the will and this provision should be complied with in order that those two persons might be treated as attesting witnesses. Again, in *M. L. Adul Jabbar Sahib's case*, it has been observed in para 8 thereof, "To attest is to bear witness to a fact. Briefly put, the essential conditions of a valid attestation under Section 3 are; (1) two or more witnesses have seen the executant sign the instrument or have received from him a personal acknowledgement of his signature; (2) with a view to attest or to bear witness to this fact each

(5) A.I.R. 1945 Lahore 3.
(6) A.I.R. 1939 P.C. 117.
(7) A.I.R. 1955 S.C. 346.
(8) A.I.R. 1989 S.C. 1147.
(9) A.I.R. 1974 Orissa 170.

of them has signed the instrument in the presence of the executant. It is essential that the witness should have put his signature *animo attestandi,* that is, for the purpose of attesting that he has seen the executant sign or has received from him a personal acknowledgement of his signature. If a person puts his signature on the document for some other purpose, e.g. to certify that he is a scribe or an identifier or a registering officer, he is not an attesting witness". Again, in para 10 thereof, it has been further observed that "The registering officer is required to affix the date and his signature to the endorsements; (Section 59). *Prima facie,* the registering officer puts his signature on the document in discharge of his statutory duty under Section 59 of Registration Act and not for the purpose of attesting it or certifying that he has received from the executant a personal acknowledgement of his signature".

(12) While considering the judgments cited by the respective parties, the learned Single Judge in nutshell observed in view of the aforesaid two Supreme Court judgments that the endorsement made by the Sub Registrar cannot be said to be an attestation as contemplated under Section 63 of the Indian Succession Act. While upholding the view of the District Judge, the appeal was dismissed on the ground that besides the Sub Registrar, statement of the scribe cannot be considered to be a statement of an attesting witness. The learned Single Judge held that the requirements of Section 63 of the Indian Succession Act and Section 68 of the Evidence Act, have not been complied with, the defendants cannot take advantage of Section 71 of the Evidence Act and other evidence produced by him cannot be taken into consideration and is extraneous for establishing the execution of the Will.

(13) Against this well-considered judgment of this Court delivered by Justice J. V. Gupta, (as he then was), the unsuccessful appellants before this Court, went to the Supreme Court and the Apex Court while endorsing the view of this Court in a case reported as *Dharam Singh* v. *Smt. Aso etc.* A.I.R. 1990 SC 1888, observed as under :—

> "We have examined the record and are satisfied that the appellate Court and the High Court were right in their conclusion that the Registrar could not be a satutory attesting witness. Therefore, the conclusion that the Will had not been duly proved, cannot be disturbed."

(14) From the discussion made above, one fact is apparent that the learned Single Judge Justice J. V. Gupta (as he then was) had taken a view in his two judgments cited by the counsel for the appellants as referred to above, contrary to his well-considered judgment in *Dharam Singh's case* (supra), which got the seal of affirmance by the Apex Court. Consequently, there is no option but to hold that the law laid down in two authorities cited by the counsel for the appellant is not correct and as such, are hereby over-ruled.

(15) By way of factual clarification, it is relevant to mention here that in the present case, the statements of the scribe and the Sub Registrar, cannot be considered to be of attesting witnesses. Both the witnesses have admitted that they did not know the executant. As stated earlier, neither the thumb impressions of the executant nor of the attesting witness stand proved on the record. In view of this, statement of these witnesses is not worth the value of the paper on which they are recorded. For valid execution of the will, there has to be satisfactory evidence on record that the executant was of sound disposing mind. This has been specifically alleged in the plaint that the executant was ailing, infirm and of not sound disposing mind at the time of execution of the alleged will Ilam Singh, PW-1, son of Nagina, plaintiff has made a categoric statement to that effect in the Court, which has not been seriously challenged and rebutted in evidence. DW-Sat Pal (defendant No. 3) while appearing as witness for himself admitted that the executant was not well and he was getting him treated from a Vaid of the village. DW-3, Swaran Singh Lambardar of the village and an alleged attesting witness of the will has categorically stated that the executant was seriously ill and was not in his senses and had no understanding power. Thus, it is proved on record that the executant/testator was not of sound disposing mind. There are other mysterious circumstances as well surrounding the valid execution of the will. It is not disputed that if will is ignored, plaintiff Nagina is to inherit the property alongwith his brother Taləb. Nothing is mentioned in the will as to why the lawful heirs are being ignored. As such the authenticity and genuineness of the will is highly doubtful.

(16) The counsel for the appellants advanced his argument on the point of validity of the will in view of the statements of the scribe and of the Sub Registrar. He has not advanced any argument on any other point. Yet in the grounds of appeal, in its

ground No. 6, it is alleged that the finding on issue No. 4-A i.e., on the point of adoption, is wrong and needs reversal. The counsel for the appellants had rightly not assailed this issue seriously at the time of arguments, yet it is made clear that both the Courts below have recorded a concurrent finding of fact rejecting the plea of adoption. No adoption-deed which should be registered one, has been produced on record. This court has gone through the evidence on record on this aspect of the matter. The oral evidence of DW-7 Smt. Shanti, DW-1, Sat Pal (Defendant No. 3), DW-4, Sawan Ram and DW-5 Kishan Singh, when taken together have been rightly rejected by the Courts being inconsistent and untrustworthy. A combined reading of the statements of these witnesses rather shows that plea of adoption has been taken as a crude attempt in the alternative for the land to be inherited by Sat Pal, DW-1, in case the will is ignored.

(17) In view of the discussion made above, it is accordingly held that the will under assail is invalid and a forged document and the findings of the Courts below to the effect jointly discussed and covered under issue Nos. 2 and 3, are affirmed. The appeal being devoid of any merit, is dismissed accordingly maintaining the impugned judgment and decree. No costs.

J.S.T.

Before : G. R. Majithia, J.

POONAM DAID (MISS),—*Petitioner.*

versus

THE STATE OF HARYANA AND OTHERS,—*Respondents.*

Civil Writ Petition No. 3542 *of* 1989.

11th January, 1991.

Constitution of India, 1950—Art. 226—Regularization—Initial appointment as part-time lecturer for three months period on temporary basis—Right of petitioner flows from service contract contained in appointment letter—No legal right accrues to petitioner to seek regular appointment by invoking extraordinary writ jurisdiction of High Court.