

# R.B. Majithia vs Sanjay Majithia & Ors on 3 December, 2020

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
RSA 59/2020

R.B. MAJITHIA

Through: Mr. Jayant Mehta, Mr. Gagan  
Mr. Pranay Chitale & Mr.  
Agarwal, Advocates (M:98

versus

SANJAY MAJITHIA & ORS.

Through: Mr. M.L. Saggar, Sr. A  
Mr. Shailendra Shar  
R-1 to 3.  
Mr. Sanjay Dewan, A

CORAM:

JUSTICE PRATHIBA M. SINGH  
ORDER

% 03.12.2020

1. This hearing has been done by video conferencing.

2. Mr. Jayant Mehta, ld. counsel for the Appellant/Defendant has made his submissions on the questions of law, which arise in the present second appeal. Mr. M.L. Saggar, ld. Senior counsel has appeared on behalf of the Respondents No.1-3/Plaintiffs and has also made his submissions. After hearing ld. counsels for the parties, the following questions of law are framed for consideration in the second appeal:

i. Whether the Will of Late Sh. Amar Nath Majithia dated 28th May, 1996 has been accepted and acted upon by all the parties?

ii. Whether the property bearing plot no. 34(46), Sector-9-A, Chandigarh was mutated in the names of Mr. R.B Majithia, Mr. G.R. Majithia, Mr. Bodh Raj Majithia and Dr. Inder Paul Majithia and if so, to what effect?

iii. Whether Late Sh. Amar Nath Majithia, not being the recorded owner, could have included the said suit property in his Will dated 28th May, 1996? iv. What would be the effect of the conduct of the Defendants in view of Sections 180 to 188 of the Indian Succession Act, 1925?

v. Whether Issue No.5 stood deleted vide order dated 12th August, 2013 in CR No. 2489/2013 by the Hon'ble High Court of Punjab and Haryana and whether the decision on the said issue was within the jurisdiction of the Trial Court and the Appellate Court?

vi. Whether the Will dated 28th May, 1996 is surrounded by any suspicious circumstances? vii. Whether a simple suit for declaration of title, without seeking cancellation of the original Sale Deed dated 5th July, 1972 was maintainable? viii. Whether the suit was hit by the provisions of the Benami Transactions (Prohibition) Act, 1988, as applicable on the date of filing of suit? ix. Whether the courts below had wrongly excluded the evidence of Ms. Sudha Majithia? x. Whether the suit was barred by limitation?

3. Parties to file their short written synopsis and copies of judgments, which they wish to rely upon, atleast one week before the next date of hearing.

4. Ld. counsel for the Respondents are permitted to place on record typed copies of the handwritten letters, for the convenience of the Court.

5. List for hearing on 10th March, 2021, at the end of board.

PRATHIBA M. SINGH, J.

DECEMBER 3, 2020 dj/A