Exclusion of Natural Heirs Does Not by Itself Constitute a Suspicious Circumstance: Supreme Court Reaffirms Principles Governing Proof and Validity of Wills in Parvathi Nairthi (Dead) & Others v. Laxmi Nairthy (Dead) Through Legal Representatives & Others, Civil Appeal No.6859 of 2014, decided on 21 May 2026.

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Introduction

The Hon'ble Supreme Court in Parvathi Nairthi (Dead) & Others v. Laxmi Nairthy (Dead) Through Legal Representatives & Others, Civil Appeal No.6859 of 2014, decided on 21 May 2026 (hereinafter referred as '**the Judgment**'), comprehensively reiterated the settled principles governing the execution, proof and validity of Wills under the Indian Succession Act, 1925 and the Indian Evidence Act, 1872.

The Supreme Court has held that mere exclusion of natural heirs from inheritance cannot, by itself, be treated as a suspicious circumstance sufficient to invalidate a Will. The Court further clarified the scope of suspicious circumstances, the burden of proof in cases alleging forgery or fabrication of Wills, the evidentiary value of affidavits, and the extent of compliance required under Order XLI Rule 31 of the Code of Civil Procedure, 1908.

The judgment is significant as it reinforces testamentary autonomy and reiterates that Courts must examine suspicious circumstances on the basis of real and germane doubts rather than speculative suspicion.

Facts

Mr. B. Sheena Nairi, a Chartered Accountant (hereinafter referred as '**the Testator**') residing in Bombay, owned substantial immovable properties situated in Karnataka, including ancestral and agricultural lands. The Testator was married to Parvathi Nairthi and had five children. During his lifetime, the Testator had executed power of attorney in favour of his brother-in-law for management of certain properties.

Subsequently, on 15.05.1983, the testator executed his last Will bequeathing all plaint schedule properties in favour of his sister, Laxmi Nairthy and revoked the earlier power of attorney. The Testator died on 30.11.1983.

After the death of the Testator, the wife of the deceased obtained mutation of the properties in her favour through revenue proceedings. Thereafter, in 1990, Laxmi Nairthy instituted a civil suit seeking declaration of ownership on the basis of the Will, possession of certain properties, mesne profits and injunction.

The wife and children of the Testator disputed the Will alleging that the Will was forged and fabricated, the signatures were not genuine and the Will was created after the death of the testator in collusion with his brothers.

The Trial Court had decreed the Suit holding the Will to be genuine. The First Appellate Court and the High Court affirmed the findings of the Ld. Trial Court. The matter ultimately reached the Hon'ble Supreme Court.

Issues

The principal issues before the Hon'ble Supreme Court were:

1. Whether the Will, dated 15.05.1983 had been validly executed and duly proved in accordance with law.
2. Whether exclusion of the wife and children of the testator constituted a suspicious circumstance sufficient to invalidate the Will.
3. Whether delay in producing the Will and non-registration thereof affected its validity.
4. Whether the First Appellate Court had failed to comply with Order XLI Rule 31 CPC.
5. Whether affidavits allegedly denying execution of the Will could be treated as substantive evidence.

Contentions of the Appellants

The Appellants contended that the Suit had been filed after an unexplained delay of nearly seven years from execution of the Will and six years after mutation proceedings. The Appellant further contended that no satisfactory explanation existed as to why the Testator would deprive his wife and children and bequeath properties solely in favour of his sister. Further, the Will was never produced before the revenue authorities during mutation proceedings and the affidavits of attesting witnesses denied execution of the Will. The Appellant further contended that the First Appellate Court failed to frame proper points for determination as required under Order XLI Rule 31 CPC.

Contentions of the Respondents

The Respondents argued that the Will stood duly proved through examination of one attesting witness as required under Section 68 of the Evidence Act. The Respondent further contended that the Appellants, despite alleging forgery, failed to examine handwriting experts or produce any substantive evidence. Further, the wife and children of the deceased never entered the witness box, thereby weakening their defence and the plaintiff had already informed revenue authorities about the Will shortly after the death of the testator. Furthermore, the Will itself expressly stated that adequate properties had already been given to the wife and children.

Reasoning, Analysis and Observations of the Court

The Hon'ble Supreme Court dismissed the Appeal and upheld the concurrent findings of all Courts below while observing as follows:

1. Principles Governing Proof of Wills

The Hon'ble Court extensively discussed Section 68 of the Indian Evidence Act and reiterated settled jurisprudence relating to proof of Wills. The Hon'ble Court observed that a Will, being a testamentary instrument that comes into operation only after the death of the testator, requires strict compliance with statutory formalities so as to eliminate the possibility of manipulation, fabrication or coercion. Relying upon a catena of precedents including H. Venkatachala Iyengar v. B.N. Thimmajamma[1], Janki Narayan Bhoir v. Narayan Namdeo Kadam[2], and Shivakumar v. Sharanabasappa and Others[3], the Court summarised the governing principles relating to execution and proof of Wills, inter alia, that the execution of the Will must be proved and at least one attesting witness must be examined. The Hon'ble Court further observed that suspicious

[1] 1958 SCC OnLine SC 31
[2] (2003) 2 SCC 91
[3] (2021) 11 SCC 277

circumstances must be dispelled by the propounder and the allegations of fraud, coercion or fabrication must be proved by the person alleging them.

The Court held that the testimony of the attesting witness clearly established due execution of the Will and that the Will had been voluntarily executed by the testator in a sound state of mind.

2. Mutation Entries Do Not Confer Title

The Hon'ble Court while rejecting the argument regarding mutation entries, reaffirmed the settled proposition that mutation in revenue record does not confer title and is merely for fiscal purposes. The Hon'ble Court relied upon Balwant Singh v. Daulat Singh to reiterate that mutation entries cannot override testamentary succession therefore, the mere fact that the properties had been mutated in favour of the wife and children of the deceased could not defeat the lawful title claimed by the Respondent under the Will.

The Court also rejected the argument that delay in asserting rights under the Will rendered the document suspicious. It noted that the Respondent had, shortly after the death of the Testator, submitted representations before the concerned authorities asserting her claim under the Will.

3. Non-Registration of a Will Is Not Fatal

The Hon'ble Court further observed that registration of a Will is not mandatory and non-registration cannot by itself create suspicion regarding genuineness of a Will. The Court relied upon Ishwardeo Narain Singh v. Kamta Devi [4]and reaffirmed that no adverse inference could be drawn merely because the Will had not been registered. The Hon'ble Court emphasised that the validity of a Will must be tested on the basis of its due execution and attestation and not on the basis of registration alone.

The Court accordingly held that the unregistered nature of the Will had no bearing upon its legality or enforceability, particularly when its execution had otherwise been satisfactorily proved through reliable evidence.

4. Exclusion of Natural Heirs is Not by Itself Suspicious

The most important proposition laid down in the judgment concerns the scope of suspicious circumstances. The Hon'ble Court categorically held that mere exclusion of natural heirs does not automatically render a Will suspicious because the very purpose of a Will is to alter the ordinary line of succession. The Court observed that suspicious circumstances must be "real, germane and valid" and the Courts must not proceed on fanciful or speculative suspicion. The Court observed that the very purpose of a testamentary disposition is to alter the ordinary line of succession and therefore a deviation from natural succession cannot automatically invite judicial suspicion.

While examining the Appellants' contention that the exclusion of the wife and children of the testator rendered the Will suspicious the Hon'ble Court categorically held that mere exclusion of natural heirs from inheritance cannot, by itself, constitute a suspicious circumstance sufficient to invalidate a Will. The Court emphasised that a testator possesses complete testamentary autonomy and is legally entitled to distribute his property in accordance with his own wishes, preferences and intentions. Merely because a Will confers benefit upon one relative while excluding others does not render the document unnatural or invalid. The Court further held that

[4] (1953) 1 SCC 295

where the testator explains reasons for exclusion of heirs in the Will itself, such exclusion cannot ordinarily invalidate the testamentary disposition.

5. Substantial Compliance with Order XLI Rule 31 CPC

On the issue of procedural compliance, the Hon'ble Court held that substantial compliance with Order XLI Rule 31 CPC is sufficient. The Court observed that even if points for determination are generally framed, the judgment would not stand vitiated where evidence has been properly appreciated, rival contentions have been considered and the reasons for conclusions are discernible from the judgment.

The Hon'ble Court thereby reaffirmed the principle that procedural rules are handmaids of justice and cannot be invoked mechanically to invalidate otherwise well-reasoned judicial determinations.

6. Evidentiary Value of Affidavits

The Supreme Court while reiterating its decision in Ayaaubkhan Noorkhan Pathan v. State of Maharashtra and Others[5], clarified that affidavits do not constitute evidence within the meaning of Section 3 of the Evidence Act unless tested through cross-examination or accepted under Order XIX CPC. Accordingly, affidavits allegedly denying execution of the Will were held insufficient to discredit the Will.

<u>Conclusion</u>

The judgment is a significant reaffirmation of the settled principles governing testamentary succession and proof of Wills under Indian law.

The Supreme Court decisively reiterated that exclusion of natural heirs alone does not constitute a suspicious circumstance. The Hon'ble clarified that testamentary autonomy must be respected unless genuine suspicion exists. The Hon'ble Court mutation entries do not confer title and non-registration of a Will is not fatal. The Hon'ble Court further stated that the procedural irregularities under Order XLI Rule 31 CPC do not vitiate judgments where substantial compliance exists.

The ruling strengthens the jurisprudence protecting the sanctity of Wills and clarifies that suspicion must be based on cogent and legitimate grounds rather than emotional assumptions arising from exclusion of legal heirs. The Judgment therefore serves as an important precedent in disputes concerning testamentary succession, probate and validity of Wills.

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[5] (2013) 4 SCC 465