



REAL ESTATE

# Supreme Court Rules State Has No Locus in Probate: Valid Will Prevails Over Escheat Claims

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## Introduction

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The Supreme Court of India has reaffirmed the supremacy of testamentary succession over State claims in its recent decision in *State of Rajasthan v. Ajit Singh & Ors.*<sup>[1]</sup> (2025). The Court made it clear that the doctrine of escheat under Section 29 of the Hindu Succession Act, 1956, is a remedy of last resort it comes into play only when a person dies intestate and without any legal heirs. Where a valid Will is executed and duly probated, the property must devolve strictly in line with the testator's intent, leaving no room for the State to assert rights over the estate. By rejecting Rajasthan's challenge to the probate of Raja Bahadur Sardar Singh's Will, the Court reinforced both the sanctity of a valid Will and the limits of governmental intervention in succession matters.

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## Background of the Case

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The dispute traces back to the estate of **Raja Bahadur Sardar Singh of Khetri**, who passed away in 1987 without leaving behind any direct heirs. Before his death, he executed a **Will on 30.10.1985** and a **Codicil on 7.11.1985**, creating the Khetri Trust to manage and administer his vast properties.

After his death, the trustees of the Khetri Trust sought probate of the Will before the Delhi High Court. However, the **Single Judge** dismissed the petition in 1987, noting that the **Rajasthan Escheats Regulation Act, 1956** had already been invoked and the State of Rajasthan had taken possession of some of the properties, claiming they had escheated to the Government.

On appeal, the **Division Bench of the Delhi High Court** overturned the ruling upheld Will to be validly executed and proved in compliance with the Indian Succession Act, 1925 and the Indian Evidence Act, 1872, and granted probate in favor of the Khetri Trust.

Challenging this, the State of Rajasthan approached the Supreme Court, contending that since the testator died without heirs, his properties stood escheated to the Government, giving the State the right to oppose the probate.

## Legal Framework

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The dispute required the Court to examine the interaction between the **Hindu Succession Act, 1956 (HSA)** and the **Indian Succession Act, 1925 (ISA)** in the context of testamentary and intestate succession.

- **Doctrine of Escheat (Section 29, HSA):** Property reverts to the State only when a person dies intestate and leaves behind **no heir** neither Class I nor Class II heirs, nor agnates or cognates. The Government inherits such property subject to all obligations and liabilities that would have bound a natural heir.
- **Hierarchy of Heirs (Sections 8 – 13, HSA):** Succession first flows to Class I heirs (such as spouse, children, and mother). If none exist, it moves to Class II heirs, followed by agnates and then cognates. Only in the total absence of such heirs does Section 29(escheat) apply.
- **Testamentary Succession (Section 30, HSA & Section 63, ISA):** A Hindu has full power to dispose of property by Will. For the Will to operate, it must be executed and proved in line with Section 63 of the ISA (formal requirements) and Section 68 of the Evidence Act, 1872 (attestation by witnesses).
- **Challenge to Probate (Section 263, ISA):** Once probate is granted, it can be challenged only by persons who would inherit if the Will fails i.e., lawful heirs under the HSA. The State's right to contest probate arises only when it is established that the deceased has left behind no legal heirs whatsoever.

## Supreme Court's Analysis

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The central question before the Court was whether the **State of Rajasthan** had the right to challenge the probate of Raja Bahadur Sardar Singh's Will. The State argued that since the testator died without heirs, his properties stood escheated to the Government, giving it locus standi to oppose probate.

The Court rejected this claim and clarified several important principles:

#### 1. **Escheat as a Last Resort**

1. Section 29 of the Hindu Succession Act applies only when a person dies intestate and without any heir whatsoever.
1. As long as a valid Will exists, succession is testamentary, not intestate, and the doctrine of escheat is not triggered.

#### 2. **Validity of the Will**

1. The Division Bench of the Delhi High Court had already found the Will to be valid, executed in compliance with Section 63 of the Indian Succession Act, 1925, and proved under Section 68 of the Evidence Act, 1872.
1. With probate granted, the property devolved upon the Khetri Trust, the named legatee.

#### 3. **State as a "Stranger" to Probate Proceedings**

1. The Government cannot act as a rival claimant in probate matters. Its role arises only if there is a total failure of heirs and no valid testament.
1. Even if the Will were disputed, only lawful heirs under Sections 8 to 13 of the Hindu Succession Act could seek revocation under Section 263 of the ISA not the State.

#### 4. **Judgment**

1. The Supreme Court held that the case was one of **testamentary succession**, not intestate succession. Since a valid Will had been executed and probated, the doctrine of escheat under Section 29 of the Hindu Succession Act was not attracted. As a result, the State of Rajasthan had no locus standi to question the High Court's decision.
1. Accordingly, the Court **dismissed the petitions** filed by the State and affirmed the grant of probate in favor of the Khetri Trust, thereby ensuring that the intentions of the testator would be carried out through the Trust.

## **Significance of the Ruling**

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1. **Clear Limits on Government Intervention** – The State cannot step into probate proceedings unless there is a proven absence of heirs and no valid Will. This curtails unnecessary governmental claims over private estates.
2. **Primacy of Testamentary Succession** – By upholding the probate of a duly executed Will, the Court reaffirmed that a testator's wishes take precedence over escheat claims by the State.
3. **Guidance on Section 29, Hindu Succession Act** – The ruling clarifies that escheat is a last resort mechanism and not a parallel ground of succession when a valid Will exists.
4. **Protection of Trusts and Legatees** – Trusts and other beneficiaries created under a valid Will are safeguarded from State interference, ensuring that charitable or private intentions expressed by the testator are respected.
5. **Practical Clarity for Future Cases** – The decision sets a precedent for probate matters, making it clear that only rightful heirs under succession law, and not the State, can contest or seek revocation of probate.

## **Author's View**

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The Supreme Court's ruling in *State of Rajasthan v. Ajit Singh & Ors.* is both timely and necessary. By shutting the door on the State's unwarranted intervention in probate matters, the Court has reaffirmed the principle that **escheat is an exception, not the rule**. The judgment strikes the right balance between protecting the sanctity of a testator's intent and ensuring that State authority is exercised only in the rarest of cases when there is truly no heir and no testament.

Importantly, the decision also strengthens the legal position of trusts and legatees, which are often vulnerable to protracted litigation when governments attempt to claim private property. It sends a strong signal that once a Will has been duly proved, its beneficiaries should be allowed to carry out the testator's wishes without interference.

In the larger scheme, this ruling enhances certainty in succession law, reassuring individuals that their estate planning will be respected, and discouraging opportunistic claims by the State.

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