

In the High Court of Punjab and Haryana at Chandigarh.

**CR No.1237 of 2015
Decided on 21.2.2015**

Lajpat Rai

--Petitioner

Vs.

Shyam Lal and others

--Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Bhupinder Singh, Advocate, for the petitioner

Rakesh Kumar Jain,J: (Oral)

This petition is filed by defendant No. 1, assailing the order dated 17.1.2015, allowing the application of the plaintiff to amend his plaint to introduce the facts that Karam Chand had executed a registered Will bearing Vasika No.176 dated 08.2.1989 in favour of his wife Krishna Wanti.

Learned counsel for the petitioner has argued that it has been mentioned in para 2 of the application that Karam Chand had executed a Will in favour of Krishna Wanti, whereas in para No.2 of the plaint, no such averment has been made. It is also submitted that the application has been filed by the plaintiff after the trial has begun and in view of the proviso to Order 6 Rule 17 of the CPC, it should not have been allowed.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that there is no error in the order of the Court below.

In para 2 of the plaint, the plaintiff has categorically averred that Karam Chand died at village Assan Kalan on 13.12.1989 and had bequeathed this house bearing No. 11/6 Guru Nanak Pura, Panipat in favour of his wife Krishna Wanti. The plaintiff has requested to add that how Krishna Wanti had become owner of the property in dispute as he wanted to aver that the property in dispute was bequeathed by Karam Chand in favour of his wife Krishna Wanti by way of a registered Will bearing Vasika No. 176 dated 08.2.1989, registered with the Sub Registrar, Panipat. This amendment has been allowed by the trial Court in order to bury the hatchet in the family once for all because if the property in dispute is found to have fallen in the hands of Krishna Wanti, then the plaintiff who has sought declaration and separate possession may succeed.

In view thereof, I do not find any merit in this petition and the same is hereby dismissed.

21.2.2015
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(Rakesh Kumar Jain)
Judge