

In the High Court of Punjab and Haryana at Chandigarh.

**CR No.1240 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 against the order dated 17.1.2015, allowing the application of the plaintiff to lead secondary evidence in respect of a registered Will bearing Vasika No.176 dated 08.2.1989, purported to have been executed by Karam Chand in favour of his wife Krishna Wanti and the allotment letter dated 27.10.1953 issued by Tehsildar (Sales) Panipat, regarding the house in dispute in favour of Krishna Wanti by way of secondary evidence.

It is not disputed that evidence of the plaintiff is still going on and the statement of defendant has been recorded recorded by the Court below that he does not possess the aforesaid document, therefore, the application has been allowed.

In the other petition bearing C.R.No.1237 of 2015, I have also decided that the amendment sought by the plaintiff has rightly been allowed

by the Court below in which he wanted to add in the plaint that Krishna

Wanti had become owner of the property in dispute on the basis of a Will bearing Vasika No.176 dated 08.2.1989 registered before the Sub Registrar, Panipat. Once the pleadings are there, the plaintiff has a right to lead secondary evidence and in that regard, he wanted to produce on record a certified copy of the Will by way of secondary evidence.

Insofar as the allotment letter is concerned, learned counsel for the petitioner has submitted that there is no reference of the said allotment letter in the pleading, therefore, evidence beyond pleadings cannot be allowed.

There is no dispute about the proposition of law as canvassed by learned counsel for the petitioner but he has submitted that if there is an allotment in favour of Karam Chand, then it would tantamount to an ancestral property and Karam Chand would have no right to alienate the suit property by way of a registered Will in favour of his wife Krishna Wanti excluding other natural heirs who had to succeed to the property by way of natural succession. Where the parties are closely related and are at loggerheads, this evidence should come on record as to whether Karam Chand had bequeathed the property in dispute in favour of his wife Krishna Wanti on the basis of a registered Will.

In view thereof, I do not find any error in the order of the Court below and hence this petition is hereby dismissed.

21.2.2015
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(Rakesh Kumar Jain)
Judge