

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(211)

CR-1286-2006

Decided on: April 28, 2015.

Beermati and another

.... Petitioners

Versus

Ram Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sachin Mittal, Advocate,
for the petitioners.

Mr. Rajesh Arora, Advocate,
for respondents No. 1 and 2.

M.M.S. BEDI, J (ORAL)

Service of respondents being complete and the revision being old, is taken up for final hearing.

Petitioners are daughters of late Umrao Singh whereas defendants-respondents No. 1 and 2 are sons of said Umrao Singh.

The petitioners have filed a suit for declaration that the father of the plaintiffs had not executed a Will dated 02.09.1996 and for injunction that the defendants-respondents should not alienate the property in dispute. The said suit was withdrawn on the basis of statement of the counsel for the petitioners on 09.11.2004.

Petitioners claimed that their Advocate Sh. Dharambir Singh, District Court, Gurgaon had betrayed and cheated them by making statement, withdrawing the suit on their behalf without their instructions.

I have gone through the order dated 09.11.2014 passed on the basis of statement of counsel for the petitioners. It appears that the suit had

been dismissed on the ground that the plaintiffs-petitioners did not want to pursue the case as the property in dispute stood acquired. The petitioners seem to have filed a complaint against the Advocate for wrongly withdrawing the suit.

I have considered the relationship of the parties and nature of the dispute and I am of the opinion that the property dispute amongst the sisters and brothers should have either been adjudicated or matter could have been compromised. The ends of justice would adequately be met in case the petitioners are given fair opportunity to establish their claim and family dispute could be finally decided. Admittedly the statement of withdrawal of suit was not signed by the petitioners. Even if it is presumed that the property in dispute has been acquired and compensation assessed, in that eventuality, the petitioners would have a right and interest in the amount of compensation amount as well.

In the interest of justice, this petition is allowed. Interim order dated 09.11.2004 passed on the basis of the statement of counsel is hereby set aside. It will be open to the petitioners to appear before the trial Court i.e. successor Court of Sh. Jaibir Singh Hooda, the then Civil Judge (Jr. Division), Gurgaon on 23.05.2015. Petitioners will deposit a costs of Rs.10,000/- before the trial Court for payment to the contesting defendants. The application for restoration of the suit is allowed setting aside impugned order dated 24.12.2005. Trial Court shall proceed with the case from the stage it was withdrawn, on payment of costs of Rs.10,000/- by the plaintiffs.

(M.M.S. BEDI)
JUDGE

April 28, 2015
harsha