

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3549 of 2015
Date of Decision: 17.07.2015.**

Gurdarshan Singh and others

.....Petitioners

Versus

Gurcharan Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Saurav Khurana, Advocate
for the petitioners.

SABINA, J.

Petitioners who are defendants No. 1 and 3 have filed this petition under Article 227 of Constitution of India challenging the orders dated 11.7.2014 and 27.2.2015.

Learned counsel for the petitioners has submitted that the Trial Court has erred in setting aside the *ex parte* proceedings against defendants No. 9 to 11 as they had moved the application after a long time. Learned counsel has further submitted that the said defendants were aware of the proceedings but had chosen not to pursue their case.

Respondents No. 1 and 2 have filed suit for declaration challenging the Wills dated 7.12.1995 and 29.5.1996 executed by Rakha Ram. Plaintiffs had based reliance on Will dated 22.5.1979 executed by Rakha Ram. Suit filed by the plaintiffs was dismissed by the Trial Court vide judgment/decreed dated 16.2.2006. First

appeal preferred by the plaintiffs was dismissed by the Appellate Court vide order dated 20.5.2007. Thereafter the plaintiffs preferred Regular Second Appeal No. 2043 of 2007 in this Court. The said appeal was disposed of by this Court vide order dated 11.5.2010. Issue No. 2 was framed by this Court and case was remanded to the Trial Court for fresh decision, in accordance with law. It was further held that liberty shall be given to contesting defendants to lead evidence including the evidence on reframed issue No. 2 and the plaintiffs were to be granted the liberty to lead evidence in rebuttal qua issues the onus of which was on the defendants. Thereafter defendants No. 9 to 11 moved an application before the Trial Court for setting aside *ex parte* proceedings against them. The said application was allowed by the Trial Court vide order dated 11.7.2014. Aggrieved against the said order, petitioners moved an application for review of the order dated 11.7./2014 and the same was dismissed by the Trial Court vide order dated 27.2.2015. In its true sense, it is the plaintiffs who could be said to be aggrieved by the said order. Petitioners are co-defendants with defendants No. 9 to 11.

Hence, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 17, 2015
Gurpreet