

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3900 of 2014 (O&M)
Date of Decision: 21.4.2015.**

Satjit Singh

.....Petitioner

Versus

Kamaljit Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.K.Kalsy, Advocate
for the petitioner.

Mr. Ramanjeet Singh, Advocate
for respondent No. 1.

None for respondent No. 2.

SABINA, J.

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 15.2.2014 (Annexure P-4) whereby application moved by the the petitioner to prove the Will by way of secondary evidence, was dismissed.

Learned counsel for the petitioner has submitted that petitioner has filed suit for declaration basing reliance on registered Will dated 9.3.1998. However, the original Will was lost and DDR had been got registered by the petitioner in this regard on 26.9.2011.

Learned counsel for respondent No. 1, on the other hand, has opposed the petition and has submitted that the Will in question was a forged and fabricated document.

Petitioner has filed suit for declaration basing reliance on registered Will dated 9.3.1998. Parties are closely related to each other. Case of the petitioner is that his mother had executed the Will in his favour. The Will in question is a registered Will and was got registered way-back on 9.3.1998. In these circumstances, the learned Trial Court should have permitted the petitioner to prove the Will by leading secondary evidence. Petitioner had lodged DDR with the police qua loss of the original Will on 26.9.2011. In the facts and circumstances of the present case, the learned Trial Court fell in error while dismissing the application moved by the petitioner for permission to prove the registered Will in question by leading secondary evidence.

Accordingly, this petition is allowed. Impugned order dated 15.2.2014 (Annexure P-4) is set aside. Consequently, application moved by the petitioner to prove the Will dated 9.3.1998 by leading secondary evidence, is allowed.

**(SABINA)
JUDGE**

April 21, 2015
Gurpreet