

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

CR No. 3949 of 2014 (O&M)
Date of decision: July 30, 2015

Ajay Kanwar

...Petitioner

Versus

Sh. Brahm Darshan Singh and others

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Rahul Sharma-I, Advocate,
for the petitioner.

Mr. Gurpreet Singh and Mr. Sanjeev Kumar Bawa, Advocates,
for respondents No. 1,2, 5 and 6.

K. KANNAN, J. (Oral)

1. The revision petition is at the instance of the son of Raj Rani, who has been permitted to be impleaded on her death in a pending suit. Along with him there were two other persons who were daughters, who have been directed to be impleaded. The suit as originally filed by Raj Rani was against a third party for declaration of 1/3rd share in Kothi No. 219, village at Jalandhar. The petitioner propounded a Will executed in his favour disinheriting the daughters. The daughters disputed the Will. The Court, while allowing his son petitioner to be impleaded as a plaintiff in place of Raj Rani as a legal representatives, has only reserved the petitioner's right to establish his right under the Will against his sister's

independent suit and has declined to allow for amendment sought by the petitioner incorporating averments regarding the execution of the Will and his claim to exclusive right against his sisters also. The court has declined such an amendment.

2. The impleadment of a legal representative has been dealt with by the court below in allowing for all the persons who were legal heirs but for the Will. If there is a dispute amongst the legal heirs themselves of one party propounding a Will and another denying the same of the deceased plaintiff, any permission given to the plaintiff to make issue about the truth and the validity of the Will alleged to have been executed by the deceased plaintiff will bring a needless complexity to the proceedings in as much as the third party who may not be interested in contesting the suit any more than the defence already entered that Raj Rani had no right to claim 1/3rd claimed by her, would also be compelled to confront the evidence adduced as regard the validity of the Will set up by the son, which he may not be interested in contesting. In any event, the relevance of finding regarding the Will would be wholly alien to the original scope of the suit which was required to adjudicate only the right as claimed by Raj Rani. Any forced adjudication on the validity of the Will of Raj Rani herself will bring additional complication to the suit which is not necessary. If the court had, therefore, allowed for inter se dispute amongst the representatives of the deceased Raj Raj to be pursued in the independent proceedings, it has done what it was competent to do. I will not find any reason to interfere with the said order.

3. The revision petition is dismissed giving liberty to any one of

the legal representatives brought on record to bring an adjudication regarding the estate of Raj Rani, if estate is successful in establishing the right of the plaintiff during her life time.

July 30, 2014
prem

(K.KANNAN)
JUDGE