

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

(110)

**CR No.4883 of 2015 (O&M)
Decided on: August 05, 2015.**

Bhupinder Singh and another

.... Petitioners

Versus

Raj Rani and another

..... Respondents

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

Present: Mr. Sumit Narang, Advocate,
for the petitioners.

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

Vide impugned order, the trial Court has closed the evidence of the defendant-petitioners.

It has been urged that the plaintiff-respondent No.1 has filed a suit for declaration that the plaintiff is co-owner of the property along with the defendant-petitioners, challenging the validity of registered Will dated 27.05.2002 alleged to have been executed by Jai Singh.

Learned counsel for the petitioners submits that the onus of establishing the Will dated 27.05.2002 lies on the defendant-petitioners and that they want to examine the marginal witnesses of the Will in case they are given reasonable opportunity.

I have heard learned counsel for the petitioners and I am of the opinion that the adjudication of the rights of the parties depend upon the proof and authenticity of the Will dated 27.05.2002. The plaintiff claims inheritance on the basis of natural succession whereas the defendants rest their claim on the basis of the registered Will alleged to have been executed

by Jai Singh. The dispute is inter se the blood relations. A fair opportunity is required to be granted to the propounders of the Will.

Without expression of any opinion on merits of the case, I deem it appropriate to dispose of this revision petition in limine in the interest of expeditious disposal of the controversy and to protect the plaintiff-respondent No.1 from unnecessary expenditure of litigation by granting opportunity to the defendant-petitioners to produce the marginal witnesses of the Will subject to payment of costs of Rs.10,000/-. The impugned orders dated 06.05.2015 and dated 17.07.2015 are hereby set aside. A direction is issued to the trial Court to give two effective opportunities to the defendant-petitioners to produce marginal witnesses of the Will subject to payment of costs of Rs.10,000/-, which will be deposited on the next date of hearing, before the trial Court. The entire exercise of examination of the marginal witnesses of the Will, will be completed within a period of two months after the next date of hearing already fixed before the trial Court or from the date of receipt of certified copy of the order whichever is later. It is made clear that in case the costs is not paid or the defendant-petitioners fail to produce the witnesses within the period mentioned hereinabove on having been granted two effective opportunities, this petition will be deemed to have been dismissed.

Since this order has been passed in limine without hearing the respondent No.1-plaintiff, it will be open to the plaintiff-respondent No.1 to approach this Court for recalling of the order, in case, the order is not acceptable to her.

(M.M.S. BEDI)
JUDGE

August 05, 2015

harsha