

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.5115 of 2013
Date of decision:05.02.2015

Gurpal Singh

....Petitioner

Versus

Tej Singh & another

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Inderjit Sharma, Advocate, for the petitioner.

Mr.Aakash Singla, Advocate, for respondent No.2.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition is to the order dated 24.07.2013, whereby the Civil Judge (Jr.Divn.) Bhatinda has dismissed the application of the petitioner, to be impleaded as the legal representative of the deceased/defendant/Harpal Kaur. The application of respondent No.2, Kulbir Singh (minor), for being impleaded as legal heir on the basis of a registered will dated 20.12.2011, has, however, been allowed.

The background of the case is peculiar, in view of the fact that the petitioner/husband/Gurpal Singh has been excluded by way of the registered will from the estate of Harpal Kaur. The Trial Court has noticed the fact that Harpal Kaur and the petitioner Gurpal Singh were having criminal litigation *inter se* and an FIR was lodged against him and the family under Sections 498A, 406, 313 IPC. A compromise was got effected wherein land measuring 24 kanals was transferred in favour of Harpal Kaur by Tej Singh, the father of the present petitioner and the father-in-law of Harpal Kaur-deceased.

However, inspite of the compromise having been effected, things did not settle there and respondent No.1-Tej singh filed a suit for declaration that the

sale deed executed was by way of fraud and under threat and coercion and without consideration. During the pendency of the suit, Harpal Kaur died on 06.11.2012, leading to the filing of the application for impleadment as LR, one by her husband, with whom, she was having dispute and secondly, by respondent No.2, the minor, in whose favour, the registered will had been executed. It is, in such circumstances, the Trial Court has rightly allowed the application of respondent No.2, in view of the registered will, whereby, the husband was left out of the right to represent the estate of the deceased.

Counsel for respondent No.2 has rightly argued that if the present revision petition is allowed and the present petitioner is allowed to be added as a party, the petitioner and his father, Tej Singh, respondent No.1 would join hands and compromise the issue, leaving the minor, who is the nephew of the deceased, high and dry. Keeping in view these facts, the discretion which has been exercised by the Trial Court in declining the application of the petitioner and allowing the application of respondent No.2, Kulbir Singh, is well justified and the impugned order does not warrant any interference by this Court.

Accordingly, the present revision petition, being bereft of any merit, is, hereby, dismissed.

05.02.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE