
In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.5283 of 2014
Date of Decision: 13.10.2015.

Nand Kishore

...Petitioner

Versus

Kiran and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vipin Mahajan, Advocate,
for the petitioner.

Mr. Mandeep Singh Bedi, Senior Advocate with
Mr. G.S. Bawa, Advocate,
for respondent No.1.

1. Whether Reporters of Local Newspapers 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?

KULDIP SINGH, J. (ORAL)

Impugned in the present revision petition is order dated 26.05.2014 (Annexure P-4) passed by Ld. Civil Judge, Junior Division, Gurdaspur vide which application of the defendants for permission to lead secondary evidence regarding the unregistered Will dated 07.01.2005 executed by Baldev Singh father of the plaintiff and defendant Nos.1 & 2 was dismissed holding that the loss of the Will is not proved as no DDR was lodged with the Police.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the petitioner contends that the photocopy of the Will was attached with the written statement and the copy thereof was also produced before the revenue authorities. The mere fact that the DDR was not lodged does not mean that the Will was not lost.

I am of the view, at this stage, it is not possible to determine about the existence and loss of the original Will.

In these circumstances, the impugned order is set aside and a conditional permission is granted to the defendant to prove the Will by way of secondary evidence subject to proving the existence and loss of the original Will, the evidence regarding which shall be led with the main evidence. If the Lower Court is satisfied about the existence and loss of the original Will, only then the secondary evidence will be admitted into evidence, otherwise the Will will be discarded. Needless to say that the opposite party shall be given an opportunity to rebut the said evidence.

Revision petition is accordingly disposed of.

October 13, 2015

Ankur

**(KULDIP SINGH)
JUDGE**