

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.664 of 2013(O&M)

Date of decision: 03.11.2015

Sukhjeet Singh and others

.....Petitioners

versus

Ajmer Kaur

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.K.Garg Narwana, Senior Advocate with
Mr.Naveen Gupta, Advocate for the petitioners
Mr.Rahul Vats, Advocate for the respondent

- 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 is the order dated 22.1.2013 (Annexure P3), passed by the learned Additional Civil Judge, Senior Division, Tohana, vide which application of the defendants -petitioners for additional evidence was dismissed.

Suffice to say that in a suit filed for declaration challenging the unregistered Will dated 23.3.2009, allegedly executed by Gurtej Singh son of Budh Singh, both the parties have already concluded their evidence when the present application was filed, stating that they are able to lay hand on one Pronote dated 21.2.2006 and one agreement dated 14.12.2000, which bear the signatures of the testator Gurtej Singh. These are required to prove that Gurtej Singh

used to sign and his signatures on the Will are genuine, as in the plaint the plea was taken that the deceased was an illiterate person and used to thumb mark the documents and he had never signed any document in his lifetime. For this purpose, five witnesses, mentioned in the application are also sought to be examined.

The lower Court has taken the view that the additional evidence can be allowed only if it is necessary for the just and proper decision of the case. It was held that it is nowhere stated in the application that these documents could not be traced out despite due diligence at the stage of evidence of the defendants.

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

At the very outset, the learned counsel for the petitioners has argued that he may be given two opportunities to conclude evidence of the petitioners and that they will produce the witnesses under their responsibility and conclude the evidence, if additional evidence is allowed.

After going through the pleadings and the application, I am of the view that the production of the additional evidence is necessary for the just and proper decision of the case. Admittedly, there is some lapse on the part of the defendants to produce the documents earlier or in laying hand on these documents at the earlier stage. But the ends of justice cannot be defeated on account of some negligence on the part of the defendants. The other party can be compensated in terms of the costs for the delay caused by the defendants.

Therefore, keeping in view that the additional evidence is

necessary for the just and proper decision of the case, the impugned order is set aside. The present revision is allowed and the production of Pronote and agreement, as mentioned in the application is allowed. The petitioners are also allowed to examine five witnesses mentioned in the application subject to the condition that the petitioners will be given only two opportunities to conclude their evidence under their responsibility. However, they can take the summons dasti but Court will not compel the appearance of witnesses. So far as handwriting expert is concerned, a private handwriting expert can be examined and the copy of the report shall be given in advance to the opposite counsel to ensure that no unnecessary adjournment is caused. However, the additional evidence is allowed subject to payment of Rs.10,000/- as costs to the opposite party.

03.11.2015*gk***(Kuldip Singh)
Judge**