

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.6701 of 2014 (O&M)

Date of decision:16.01.2015

Kewal Krishan

....Petitioner

Versus

Gora Lal & others

.....Respondents

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

Present: Mr.Tarun Singla, Advocate, for the petitioner.

Mr.Sandeep Goyal, Advocate, for respondent No.1.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition, filed by the petitioner-defendant No.2, is to the order dated 05.09.2014 (Annexure P5), whereby the Trial Court has allowed the application for additional evidence filed by the plaintiffs for examining a handwriting expert by proving the signatures on the family settlement dated 01.03.1992.

On the filing of the application, the petitioner-defendant had opposed the same on the ground that it was filed at a belated stage, to fill up the lacuna in the case, since the witnesses-Hemraj and Mangat Rai, to the family settlement were sought to be produced. It is submitted that since the onus of the family settlement was upon the plaintiffs, therefore, the evidence should have been led in the affirmative.

The case had been fixed for rebuttal evidence and arguments and at that stage, the Trial Court had allowed the application on the ground that for proper adjudication of the matter, it was necessary to examine the witness. The defendants would not be prejudiced as they would be getting opportunity to cross-examine. There is no doubt regarding the stage of the suit. The procedure

observations of the two Division Benches of this Court in *Surjit Singh & others Vs. Jagtar Singh & others 2007 (1) PLR 552* and the judgment passed in *Jagdev Singh & others Vs. Darshan Singh & others 2007 (2) PLR 315*. The matter was again referred to another Division Bench and the said view has been upheld in *CR No.2203 of 2010* titled *Avtar Singh & another Vs. Baldev Singh & others* decided on 21.11.2014.

Thus, keeping in view the settled position of law, the order impugned dated 05.09.2014 (Annexure P5), is not justified and the same is accordingly, set aside.

Revision petition stands allowed in the abovesaid terms.

16.01.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE