

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

CR No.709 of 2015 (O&M)
Date of Decision: 30.01.2015

Darshan Singh and another

. . . .Petitioners

Versus

Malkiat Kaur

. . . . Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.A.S. Jattana, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

This revision petition is directed against the order dated 18.12.2014 by which an application filed by the petitioners for granting permission to prove the registered Will dated 25.2.2002 executed by their uncle Inder Singh by way of secondary evidence, has been declined.

The case set up by the petitioners is that they had the registered Will with them but when they were returning to their Village after consulting with their Advocate at Moga, lost their bag containing the said Will. They also lodged rapat No.6 dated 2.10.2009 at Police Station Kot Ise Khan in this regard and had applied for certified copy of the said Will which has not been obtained so far. It is submitted that it was a *bona fide* mistake and therefore, they may be allowed to prove the Will by way of secondary evidence.

Learned counsel for the petitioners has reiterated the case of the petitioners and has submitted that the petitioners being the rustic villagers erred in not mentioning this fact in the written statement.

I have heard learned counsel for the petitioners and after examining the record, am of the considered opinion that there is no error in the order of the Court below because had there been a Will in favour of the petitioners, they would have definitely mentioned about it in their written statement which got typed on 24.1.2011 and filed on 11.2.2011 whereas the alleged loss of the Will took place on 25.2.2002 much prior to the filing of the written statement. Secondly, it has also been observed by the Court below that the copy of rapat No.6 dated 2.10.2009 was also not produced. However, in the present case, the petitioners have produced the alleged rapat No.6 dated 2.10.2009.

Be that as it may, the very fact that there is no reference of the Will in the written statement, therefore, it appears to be an after thought and hence, there is no error in the order of the Court below.

In view of the above, the present revision petition is hereby dismissed.

30.01.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**