

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.7594 of 2013 (O&M)
Date of Decision: 19.02.2015

Vinod and another

...Petitioners
Versus

Charan Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers 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?*

Present: Mr. Shiv Kumar, Advocate
for the petitioners.

Mr. Jagdish Manchanda, Advocate
for the respondents.

R.P. Nagrath, J. (Oral)

Petitioners have invoked the jurisdiction of this Court under Article 227 of the Constitution of India seeking to set aside the order dated 19.10.2013 passed by the trial Court whereby preliminary issue was framed.

The petitioners are daughters of Karan Singh, who died on 08.06.2001. Karan Singh was statedly owner of $\frac{1}{4}^{\text{th}}$ share of the land in question having inherited the estate of Rati Ram alongwith his three brothers. Respondents are brothers of Karan Singh but they have set up a Will dated 04.12.2000 allegedly registered on 13.12.2000, executed by Karan Singh in their favour. The parties

have also been litigating before the Revenue Authorities with regard to the estate of Karan Singh and petitioners in their suit instituted on 06.07.2013 also challenged the orders passed by the Revenue Authorities and the last of the order passed by the Revenue Authorities is dated 27.09.2006. The basic dispute is, however, with regard to the inheritance of the estate of Karan Singh. The preliminary issue framed by the trial Court is “*whether the suit of the plaintiff is barred by limitation ? OPD.*”

I have heard learned counsel for the parties at considerable length, perused the impugned order and also the record.

The impugned order has been passed by the learned trial Court framing the preliminary issue while disposing of the application for grant of temporary injunction. The learned trial Court has observed in the impugned order that the question of validity of the Will as well as the orders passed by the Revenue Authorities cannot be decided in the absence of evidence on record and despite that preliminary issue has been framed. I am of the view that the issue of limitation in a suit for declaration of title is a mixed question of facts and law and that cannot be treated as preliminary issue and has to be tried and adjudicated upon alongwith the other issues arising in the case. Therefore, the impugned order is set aside to the extent that the issue framed cannot be treated as preliminary as the trial Court is bound to frame all the relevant issues as also the issue of limitation arising from the pleadings of the parties.

The learned trial Court would now proceed to decide the suit after framing issues arising from the pleadings and proceed further in accordance with law.

The instant petition stands disposed of in the terms indicated above.

(R.P. Nagrath)
Judge

19.02.2015
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