

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 8798 of 2015 (O&M)
Date of decision: 23.12.2015

Urmila @ Pinki

.. Petitioner

v.

Om Parkash and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashwani Bakshi, Advocate for the petitioner.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 9.12.2015, passed by the court below, whereby the application filed by the petitioner for framing of additional issue, has been dismissed.

The suit was filed by the petitioner-plaintiff along with repondent No. 5-Anurag, *inter alia*, challenging the Will dated 27.10.1997, allegedly executed by Smt. Shanti Devi. Initially, the issue regarding validity of the Will was not framed. Application was filed by the petitioner seeking re-framing of the issues. Vide order dated 5.11.2015, the issue regarding validity of the Will was framed and the onus thereof was placed upon the plaintiffs. Thereafter, application was filed by the petitioner for re-framing of issues taking the plea that onus to prove the validity of the Will be placed upon defendant No. 2, who had propounded the Will. The same having been rejected, the order has been impugned in the present petition.

After hearing learned counsel for the petitioner, I do not find

any merit in the present petition. It is not in dispute that the suit was filed by the petitioner along with respondent No. 5, *inter alia*, challenging the Will executed by Smt. Shanti Devi on 27.10.1997. The stand of the defendants in the reply was that the Will is validly executed. Once challenge to the Will has been made by the petitioner in the suit, the onus to prove that fact will lie on the plaintiffs and not the defendants. It is not that the defendants had projected the Will for the first time in defence to a claim made by the plaintiffs in the suit. There is no error in the order passed by the court below.

Accordingly, the petition is dismissed.

(Rajesh Bindal)
Judge

23.12.2015
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