

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CR No.8764 of 2014

Date of Decision:-13.02.2015

Shamsher Singh.

.....Petitioner.

Versus

Surjeet Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. S.K. Sandhir, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Shamsher Singh (not a party to the *lis*) is before this Court aggrieved against the order dated 21.4.2010 (P-5) whereby his application under Order 1 Rule 10 CPC to be impleaded as a party was dismissed; order dated 5.1.2012 (P-6) passed by the learned Civil Judge(Jr. Divn.), Mohali whereby the application filed by respondent no.1 Surjit Singh under Section 372 of the Indian Succession Act was allowed; order dated 16.5.2014 (P-9) passed by the learned Additional District Judge, Mohali whereby the application filed by the petitioner seeking impleadment by moving the application under Order 6 Rule 17 CPC was dismissed and finally the order dated 16.5.2014 (P-10) passed by Additional District Judge, Mohali whereby the appeal preferred by one Pasricha Charitable Trust was dismissed vide order dated 16.5.2014 (P-10).

Learned Counsel for the petitioner has argued that the question

in the present case is regarding the estate of one Mohan Singh Pasricha, who had executed an unregistered Will dated 25.12.2004 before his death itself on 26.01.2005, which covered his properties, in the application made by Surjit Singh under Section 372 of the Indian Succession Act, therefore, the petitioner is required to be impleaded as a party. He has further argued that his rights would be seriously prejudiced if the order dated 5.1.2012 (P-6) and order dated 16.5.2014 (P-10) are permitted to operate as they would prejudice the claim of the present applicant.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

In the present case, it is apparent that petitioner Shamsheer Singh claims himself to be an employee/insurer of the trust and has relied upon the aforementioned unregistered Will to say that he has inherited certain properties. It is further apparent that petitioner claims that the original will was lost in the year 2006. It is further apparent from the record that originally Surjit Singh had filed an application for grant of Succession Certificate on 7.2.2005 and during the course of trial on 20.02.2010 the application of the petitioner for being impleaded as a party was dismissed. Admittedly, no revision/appeal was filed against the said order. The said application of Surjit Singh culminated into the final order dated 5.1.2012 (P-6) whereby succession certificate was granted to Surjit Singh. Thereafter an appeal preferred by Pasricha Charitable Trust under whom, the petitioner claims himself to be an insurer and during the pendency of the said appeal, the petitioner again moved the application which was dismissed by the court of ADJ, Mohali vide order dated 16.5.2014 and some scathing observations

were made against the present petitioner for unnecessarily delaying the matter. On that very date, the main appeal was also dismissed by the learned ADJ by holding that Pasricha Charitable Trust has no locus standi to prefer the appeal as there are numerous instances which this Court does not deem appropriate to go into at this stage which goes long way to show the conduct of the petitioner who is in the opinion of this Court trying to usurp the property of late Mohan Singh Pasricha in one way or the other. Admittedly, the petitioner has also filed a separate civil suit for declaration that he is owner in possession on the basis of the alleged unregistered Will dated 25.12.2004 that suit is yet to be decided. The courts below have observed this fact in all the orders and despite the said observations especially in view of the settled law that proceedings under Section 372 of Indian Succession Act is summary in nature and is amenable to challenge by filing of a civil suit. The grievance of the petitioner by filing the present petition is vexatious bordering the line of being contemptuous. However, this Court in the present proceedings will not go into the question of validity or otherwise of the alleged unregistered Will dated 25.12.2004. However, the conduct of the petitioner which emanates from the order impugned as well as the arguments that have been raised before this Court during the course of hearing leads to only one conclusion that the petitioner is hellbent to usurp the property in any conceivable manner possible. The Court cannot exercise the jurisdiction beyond the prayers made in a petition and it is only due to this limitation that this Court is restraining itself from giving any other finding.

Thus, as a result of the discussion made hereinabove the petition is dismissed with exemplary costs of Rs.25,000/- to be deposited

with Punjab State Legal Services Authority, Mohali, Punjab being not bona fide as he has no locus standi to file the present petition and also the conduct of the petitioner demands that the unscrupulous litigants be made aware that the courts cannot be taken for a ride by them and have to be strictly dealt with so as to be deterrent for other such like possible litigants. It is further made clear that the costs of Rs.25,000/- be deposited within two months from today failing which same shall be recovered as arrears of land revenue.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

February 13, 2015
Vinay