

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

Civil Revision No.3414 of 1996 (O&M)
Date of Decision: March 01, 2016

Amrik Singh (since deceased) through L.Rs.

...Petitioners

Versus

Amarjit Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of 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.M.L.Saggar, Senior Advocate with
Mr.Sunny Saggar, Advocate,
for the petitioners.

AMIT RAWAL, J.

The petitioner-defendants are aggrieved of the order dated 6.6.1996, vide which the application seeking permission to produce the documents by way of additional evidence, has been declined.

Mr.M.L.Saggar, Ld.Senior Counsel assisted by Mr.Sunny Saggar Advocate, appearing on behalf of the petitioners submits that the plaintiff had filed a suit for declaration that he is owner of the property situated in village Majara, Tehsil and District Ludhiana owned by Shamsher Singh son of Bishan Singh on the basis of the registered Will dated 26.12.1983 and in the alternative, declaration to the effect that plaintiff Amarjit Singh and defendant Bhajan Kaur @ Harbhajan Kaur are co-owners in equal share of the estate of Shamsher Singh (since deceased) as per the provisions of Hindu Succession Act and for possession of the same. He

further submits that as per the averments made in the suit, Shamsheer Singh was bachelor and executed the Will, aforementioned, and the petitioner-defendants, after the death of Shamsheer Singh, got sanctioned mutation No.686 of Village Majara on 5.3.1985 in their favour. The appeal before the Collector was also dismissed vide order dated 31.10.1985. It was alleged that Bishan Singh son of Suba Singh was married to Dhan Kaur and from the marriage, they had two sons, namely, Ajaib Singh and Shamsheer Singh (now deceased). Dhan Kaur died and after her death, Bishan Singh was married with Narain Kaur and out of that marriage, Malkiat Singh, Amrik Singh and Jaswant Kaur were born. The defendants contested the suit on the ground that Shamsheer Singh had never executed the Will, aforementioned, as Bishan Singh was never married with Dhan Kaur as alleged in the plaint. Bishan Singh had married with Narain Kaur and out of marriage, Ajaib Singh, Shamsheer Singh, Amrik Singh, Jaswant Kaur and Malkiat Singh were born. Mutation of inheritance was sanctioned as per the natural succession. On 5.8.1987, trial Court framed the issues.

During the pendency of the suit, petitioner-defendants came to know that plaintiff Amarjit Singh had filed a succession application regarding the immovable property of Shamsheer Singh deceased in the Civil Court at Delhi stating himself to be legal heir and obtained succession certificate. On acquiring the knowledge, he filed an application for revocation of the succession certificate. The plaintiff had manipulated the alleged death certificate from the office of Registrar, Births and Deaths, Ludhiana and on acquiring the knowledge, application to the higher authorities was moved and the office made the report that the record was not available and, therefore, while closing the evidence, the counsel could not

tender into evidence certified copies of the orders and grounds of appeal filed by the plaintiff-respondent in the revenue courts. An application was moved to produce the same by way of additional evidence, but the same has wrongly been declined.

There is no representation on behalf of the respondents. The case is of the year 1996. The record of the case has been burnt in the fire accident. Now the paper book has been supplied.

I have heard the learned counsel for the petitioner-defendants and appraised the paper book and of the view that there is no substance in the aforementioned submissions inasmuch as that there are two sets of documents, which relate to mutation proceedings and death certificates of the office of Civil Surgeon, Ludhiana, for, the defendants were parties in the mutation proceedings and were represented by the same counsel. An attempt has been made by way of additional evidence to disprove the death certificates of Dhan Kaur and Narain Kaur issued by the Civil Surgeon, Ludhiana, whereas the evidence was closed on 20.2.1995 on the statement of the counsel. Certified copies of the death certificates were tendered and the case was adjourned for the evidence of the defendants. They failed to produce the evidence despite several opportunities and their evidence was closed by order. No explanation has come forward that despite exercise of due diligence, the documents, which were already in their knowledge, have not been brought on record at the time of leading evidence in affirmative. Even otherwise, the orders, aforementioned, are not binding upon the civil court.

The defendants did not rebut the death certificates, Ex.PX and Ex.PY despite having availed many opportunities and when the evidence

was closed, had moved the application to prolong the matter. This Court passed an interim order vis-a-vis further proceedings in the trial Court. The suit is of the year 1988.

Keeping in view the aforementioned facts and circumstances, I do not find any illegality and perversity in the order under challenge. The revision petition is bereft of merit and the same is accordingly dismissed.

March 01 , 2016
ramesh

(AMIT RAWAL)
JUDGE