

Civil Revision No.1537 of 2016(O&M)
Date of Decision: 30.3.2016

Jasbir Kaur

---Petitioner

versus

Jagjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Arun Sharma, Advocate
for the petitioner**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

CM No. 5825-CII of 2016.

Allowed as prayed for.

Annexures P-4 and P-5 are taken on record subject to just exceptions.

CR No. 1537 of 2016

The present petition has been directed against order dated 6.2.2016 (Annexure P-3) passed by the Civil Judge (Junior Division), Ludhiana dismissing application of the petitioner for framing of additional issues.

Counsel for the petitioner would contend that the petitioner/plaintiff has filed a suit for declaration to challenge the transfer deed dated 18.7.2002 purported to be executed by Sh. Kultar Singh father of

the petitioner and respondent No. 1 in favour of respondent Jagjit Singh. It is further submitted that respondent No. 1 has alleged that Kultar Singh executed a Will dated 18.9.1996 in his favour but the learned trial court has not framed any issue qua the Will propounded by respondent No. 1/defendant No. 1. It is further submitted that as onus to prove a Will lies upon the propounder thereof, a specific issue qua Will is required to be framed with its onus placed upon defendant No. 1.

I have heard counsel for the petitioner, perused the records but find no merit in the petition.

Though respondent No. 1 in the written statement has raised a plea that Kultar Singh, his father executed Will dated 18.9.1996 in his favour but at the same time, there is a transfer deed dated 18.7.2002 purported to be executed by Sh. Kultar Singh in favour of defendant No. 1 i.e. the subject matter of challenge in the present proceedings. As soon as the suit property is transferred by Sh. Kultar Singh by way of a transfer deed, the Will dated 18.9.1996 pales into insignificance for the purpose of determination of the controversy raised in the present proceedings. In this view of the matter, I do not find any error much less illegality in the impugned order as would call for intervention.

For the foregoing reasons, the petition stands disposed of. Nothing stated in this order shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

30.3.2016

PARAMJIT