

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

CR No.2061 of 2014 (O&M)
Date of decision : 28.03.2016

Subhash Chand

...Petitioner

Versus

Sunita Gupta and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. C.B. Goel, Advocate for the petitioner.

Mr. Ashok Aggarwal, Advocate for the respondent Nos.1 to 8.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the dismissal of application for framing of the additional issue vis-a-vis the Will dated 26.12.1995.

Mr. C.B. Goel, learned counsel appearing on behalf of petitioner submits that application was filed in order to help the Court to give issue-wise findings as evidence in regard to the proposed issue has already been led. The petitioner cannot be prevented from raising arguments vis-a-vis evidence already led. The Impugned order thus is not sustainable in the eyes of law as it suffers from illegality and perversity.

Mr. Ashok Aggarwal, learned counsel appearing on behalf of respondent No.1 to 8-plaintiff submits that in view of order dated 16.12.2008, both the parties have given not objected to framing of the issues, therefore, the present revision petition, much less, moving of the application is farcical exercise and thus prays for dismissal of the revision petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that de hors of the fact that issues vis-a-vis the parties at variance had not been relied yet in lieu of the judgment of Hon'ble Supreme Court in *2002(2) RCR (Civil) 70, P. Purushottam Reddy Vs. M/s Pratap Steels Ltd.* whereas it has been categorically held that parties are alive to the situation as the issue has not been framed. Parties cannot be precluded from raising the claim and arguments on the basis of the pleadings and Court shall adjudicate the same in accordance in law.

Keeping in view the aforementioned facts and circumstances, I am of the view that petitioner-defendant has already led evidence vis-a-vis the Will aforementioned. He shall not be precluded to raise the claim and arguments on the Will in view of ratio decidendi culled out by Hon'ble Supreme Court in case cited (Supra).

Impugned order is affirmed.

With the aforementioned observations, revision petition stands disposed of.

28.03.2016

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**(AMIT RAWAL)
JUDGE**