

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

CR-297 of 2016

Date of decision : 18.01.2016

Gurmail Singh and Anr.

.....Petitioners

Versus

Jarnail Singh and Ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. J. S. Lalli, Advocate for petitioners.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 10.10.2015 vide which the application filed by the petitioners for amendment of issue No.4 has been declined.

Learned counsel for the petitioners contended that onus of issue No.4 has been wrongly put on the petitioners. He further contended that it was for the plaintiff to prove the family settlement. In fact there was no need to frame issue No.4 wherein the question is as to whether the document dated 13.4.1995 is false forged and fabricated.

I have duly considered this plea.

It is settled question of law that when the parties had led the evidence, the question regarding onus is only academic. In the instant case also the plaintiff has already adduced the evidence and now the evidence of defendants-petitioners is going on.

The learned trial court has categorically mentioned in the impugned order that the plaintiff is required to adduce the evidence in support of it (family settlement) while proving issue No.1. On proof of the same the onus will shift upon the defendants to rebut the contentions of the plaintiff. So, the learned trial court has clarified that the burden to prove issue No.4 upon the defendants-petitioners will only arise in case the plaintiff-respondent is able to discharge his burden with respect to the validity of alleged family settlement.

For the sake of convenience the learned trial court may take issues No.1 and 4 jointly for discussion.

With the aforesaid clarification, the present revision petition stands disposed of.

18.01.2016
sunil yadav

(DARSHAN SINGH)
JUDGE