

IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

CR No.317 of 2016

Date of Decision: 27.05.2016

Sukhwant Singh & anr.

.....Petitioners

Versus

Jagjit Singh & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Rakesh Kumar, Advocate for the petitioners.

Mr. Paras Talwar, Advocate for respondent No.1.

Ms. Harveen Kaur, Advocate for respondent No.2.

Darshan Singh, J.

The present revision petition has been preferred against the order dated 11.12.2015 whereby the application moved by the plaintiff-petitioners for additional evidence has been dismissed.

2. The petitioners have filed the suit for declaration declaring the will dated 15.6.1975 as null and void and have also challenged the judgment and decree dated 27.3.2002 passed in favour of respondent No.1 and others and have also sought the other consequential reliefs. That petitioners are Non-Resident Indians. They have appointed Surinder Singh son of Charan Singh as their attorney to pursue the suit. Said Surinder Singh has already appeared as PW-1. It is alleged that respondent No.1-Jagjit Singh has committed fraud in connivance with others and even a criminal case was registered against them. Though the petitioners have already adduced sufficient evidence and relevant documents before the Court but there are certain documents and other necessary facts which are in the personal knowledge of petitioner No.1. So, the application was moved by the petitioners for seeking permission to examine plaintiff-petitioner No.1-Sukhwant Singh in support of their case for the additional evidence. The said

application has been dismissed by the learned trial Court vide impugned order dated 11.12.2015. Hence, this revision petition.

3. Learned counsel for the petitioner contended that only one opportunity may be granted to examine plaintiff-petitioner Sukhwant Singh in person as certain facts are in his personal knowledge which could not have been deposed by Surinder Singh, Attorney. He contended that the examination of Sukhwant Singh is essential for the just decision of the case.

4. On the other hand, learned counsel for the respondents contended that the case has already reached at the fag end. The petitioners have filed the suit through Surinder Singh, their attorney who had already been examined as PW-1. So, the present application has been moved only to prolong the proceedings of the case.

5. I have duly considered the aforesaid contentions.

6. This fact is not disputed that the petitioners are Non-Resident Indians. They have got filed the suit through their Power of Attorney Surinder Singh. Said Surinder Singh has also been examined as PW-1. It has been categorically mentioned in the application that the examination of Sukhwant Singh-plaintiff is essential for just and proper decision of the case as he is a material witness. It has also been pleaded in the grounds of revision that certain facts were in the personal knowledge of the petitioners which could not be expected to be deposed by the attorney. So, in these circumstances, the examination of plaintiff-petitioner No.1- Sukhwant Singh is essential for the just decision of the case.

7. Learned counsel for the petitioners has pleaded that only one opportunity may be granted for appearance of Sukhwant Singh in the witness box at his own responsibility which negates the plea raised by the learned counsel for the respondents that the intention of the petitioners is to prolong the suit. For the

inconvenience caused to the respondents, they can be well compensated by way of costs.

8. Thus, keeping in view my aforesaid discussion, the present revision petition is hereby allowed. The petitioners are granted only one opportunity at their own responsibility to examine Sukhwant Singh-plaintiff subject to Rs.15,000/- as costs. The case is stated to be fixed on 8.7.2016 before the trial Court. Plaintiff-petitioner Sukhwant Singh will appear on 8.7.2016 before the trial Court for making the statement.

May 27, 2016
ps

(DARSHAN SINGH)
JUDGE