

221.

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

Civil Revision No.471 of 2014

Date of decision:02.02.2016

Smt. Krishna Kumari alias Darshana Nanda and another.

... Petitioners

versus

Gian Inder Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vikas Kumar, Advocate,
and Mr. Anil Sharma, Advocate,
for the petitioners.

Mr. Vikas Mohan Gupta, Advocate,
for respondents 1 and 2.

Mr. Prem Kumar, Advocate,
for respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The case would require to be disposed of simply by directing additional issues to be framed on the basis of the Will propounded by the daughters as well as the sons at the time when they moved the application for impleadment in the suit filed by the mother-Nand Rani, who was died subsequent to the suit. The evidence of the plaintiffs as daughters, who were permitted to

prosecute the suit as representatives of the mother, is complete and the defendants, who were the sons, set up a plea that there had been a family settlement in respect of the property that was originally allotted to the father-Brij Lal by the Improvement Trust, was allowed to be taken by them and consequently, a sale deed was also made in their favour by the Improvement Trust. The sale by the Improvement Trust was put to challenge and the family settlement was also disputed by the mother-Nand Rani.

2. It is not merely the issue of whether Nand Rani became entitled to the property by virtue of Will which she propounded from her husband Brij Lal. It would also require a consideration of whether the daughters could claim the right as representatives of the mother if the mother's own assertion in the suit on the basis of a Will was established. It will be wrong to discard an adjudication of the right claimed by Nand Rani during her life to be prosecuted effectively by the daughters without undertaking an exercise of finding whether Nand Rani had executed a Will in favour of daughters as claimed by them. It would appear that the defendants who have denied Nand Rani's right during her lifetime have also set up a case, in the alternative, of a bequest as having been made by Nand Rani in their favour. The adjudication regarding the respective Wills claimed by them has a sure relevance for an adjudication between parties and it need not be consigned to a different litigation.

3. Under the circumstances, I direct the following issues to be framed:-

- i) Whether the Will dated 27.09.1994 alleged to have been executed by Nand Rani in favour of plaintiffs true and valid?
- ii) Whether the Will dated 07.10.1991 alleged to have been executed by Nand Rani in favour of defendants true and valid?

The evidence regarding the Wills respectively propounded by the parties will be in the nature of additional evidence and both the plaintiffs and the defendants shall be respectively given opportunities to give evidence in that regard.

4. The order already passed is set aside and the revision petition is disposed of with the above directions.

(K.KANNAN)
JUDGE

02.02.2016
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