

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

**Civil Revision No.6087 of 2016
Date of Decision: 19.09.2016**

Suresh Bhatia and others

.....Petitioners

Vs

Anupama and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Jagram Singh Cooner, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Challenge in this revision petition is to the order dated 16.08.2016 (Annexure P-1) passed by Civil Judge (Sr. Divn.) Ambala vide which application filed by the petitioners/defendants for framing additional issues was dismissed.

[2]. Plaintiff/contesting respondent filed a suit for possession of the House No.709-EWS, Housing Board Colony, Sector 7, Ambala City which was earlier owned by Sant Ram son of Nihal Chand. Plaintiff claimed that Sant Ram executed a registered Will dated 06.06.1997 in favour of his son Darshan Lal. Sant Lal died on 29.09.2008. Darshan Lal also died on

15.02.2012. Plaintiff being daughter of Darshan Lal filed the suit in question on 10.03.2012.

[3]. The suit is now fixed for rebuttal evidence and arguments. The defendant/petitioners have contested the suit on the ground that Sant Ram entered into an agreement to sell dated 11.12.2000 with them and had received Rs.50,000/- as earnest money on 11.12.2000 and an amount of Rs.25,000/- on 22.12.2000. He also received balance amount thereby totalling the amount of Rs.1,88,000/- towards full and final payment on 30.12.2000. Possession of the house was also delivered to the defendants on 11.12.2000. Defendants also pleaded that Sant Ram had executed a registered Will dated 22.12.2000 in favour of defendant No.3 Pardeep Kumar.

[4]. Plaintiff in her replication also challenged the Will dated 22.12.2000 pleaded by the defendants in the written statement. Defendant/petitioners contended that at the time of framing of issues, trial Court had not framed the issues arising out of Will dated 06.06.1997 and Will dated 22.12.2000. Defendant/petitioners moved an application for framing of additional issues in respect of aforesaid Wills on the premise that these issues should have been framed by the trial Court.

[5]. It is worth noticing that on earlier occasion,

defendant/petitioners had moved an application for additional issues with regard to court fee. At their instance, additional issues No.7(a) was framed, but no such issue was proposed at that time. The case has already reached to the stage of rebuttal evidence and arguments. Framing of any issue at this juncture would necessarily reopen the case after the conclusion of evidence by both the parties. Even otherwise this Court finds that the factum of Will can be appropriately decided under issue No.1. This was the reason that no such prayer was made by the defendant/petitioners on earlier occasion when additional issues was sought to be framed.

[6]. Witnesses of the Will dated 06.06.1997 have already been examined. In respect of Will dated 22.12.2000 the witnesses have already been examined. The case was already fixed for evidence of the defendants with second last opportunity. At this juncture, filing of the application in question is nothing but an intended exercise to delay the proceedings. Even the adjournments sought before the trial Court was granted subject to imposition of cost. Even after passing of the order dated 20.04.2015 under Order 16 Rule 10 CPC, the defendants could not examine the required witnesses despite coercive method adopted by the Court. The evidence was accordingly closed on 04.05.2015. Immediately thereafter

application under Order 14 Rule 5 read with Section 151 CPC came to be filed.

[7]. It is a settled principle of law that when both the parties knew each others case, framing of issue is wholly inconsequential. Since both the parties have already adduced their evidence in respect of Wills in question, therefore, in considered opinion of this Court, no jurisdictional error can be pointed out in the impugned order dated 16.08.2016 passed by the trial Court. Filing of application at such a belated stage cannot be entertained.

[8]. In view of above, finding no substance in the revision petition, the same is accordingly dismissed.

September 19, 2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes / No

Whether reportable Yes / No