

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

CR No.6374 of 2013 (O&M)
Date of decision : 12.01.2016

Buta Singh and ors.

...Petitioners

Versus

Hardeep Kaur 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. Binderjit Singh, Advocate for the petitioners.

Mr. Inderjit Sharma, Advocate for respondents.

AMIT RAWAL, J. (Oral)

CM No.21154-CII of 2013

For the reasons stated in the application, which is duly supported by an affidavit, LRs of deceased-Karnail Singh as mentioned in the application are ordered to be brought on record for the purpose of prosecuting the present petition.

The application stands disposed of.

Main case

The petitioners-defendant Nos.2 to 5 are aggrieved of the order dated 23.08.2013 (Annexure P-7), whereby application seeking amendment

of the written statement on account of subsequent events having occurred, on the demise of the Karnail Singh who died on 29.04.2012, whereas suit was filed in 2009 and the pleadings sought to be incorporated is regarding execution of the registered Will dated 05.08.1999 executed by Karnail Singh bequeathing his estate in favour of his nephews namely Harnek Singh, Gurtej Singh and Baldev Singh has been dismissed. The suit filed by the respondents-plaintiffs is that the property, at the hands of genesis of Karnail Singh was ancestral though Karnail Singh during his lifetime filed written statement disputed the aforementioned fact by saying that it was self-acquired property thus it is submitted that amendment if allowed would be innocuous being a subsequent event and, which is essential & necessary for the adjudication of the lis between the parties.

Mr. Inderjit Sharma, learned counsel appearing on behalf of respondents submits that order cannot be said to have passed without jurisdiction, much less, erroneous as trial Court rightly rejected the application that the petitioners-defendants had taken the plea in the written statement that they acquired the right in the property by virtue of the sale deeds executed by Karnail Singh and now incorporating the plea of Will executed by Karnail Singh would tantamount to withdrawal of the admission and thus prays for dismissal of the petition.

I have heard learned counsel for parties and appraised the paper book.

Shorn of the facts as noticed above, it would not be necessary to decide whether the property at the hands of Karnail Singh was ancestral or not. It would be the domain of the trial Court, subject to the parties

pleadings as well as evidence to be lead in support of the averments. It is a matter of record that Karnail Singh died on 29.04.2012 which is subsequent event, occurred during the pendency of the suit and had executed the registered Will dated 05.08.1999, therefore, defendants should be given an opportunity to amend the written statement as it would not tantamount to withdrawal of admission as the Will is in favour of Harnek Singh, Gurtej Singh and Baldev Singh who are not parties to the suit, whereas defendants-petitioners are claiming the right by virtue of the sale deed executed by Karnail Singh during his lifetime.

Accordingly, impugned order is set aside.

Application seeking amendment of the written statement is allowed.

With the aforementioned observations, revision petition stands allowed.

12.01.2016

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**(AMIT RAWAL)
JUDGE**