

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.6722 of 2015 (O&M)

Date of decision:12.12.2016

Gurmeet Singh Bhandari & anr.

....Petitioners

vs.

Smt.Kamlesh Rani Thakur & ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. HPS Kochar, Advocate for the petitioners.

Mr. Rajesh Khurana, Advocate for respondents no.1 to 4.

Mr. Rajinder Sharma, Advocate for respondent No.5.

Ms. Amrita Khanna, Advocate for respondent No.6.

Mr. Pranav Grover, Advocate for Mr. Vikas Chatrath, Advocate for respondent No.7.

Mr. Ritesh Kumar Bansal, Advocate for respondent no.8.

Mr. Sanjeev Sharma, Advocate for respondent No.10.

Mr. Sunil Narang, Advocate for respondent No.11.

Mr. Namit Kumar, Advocate and Mr. Alankrit Bhardwaj, Advocate for respondent no.12.

DARSHAN SINGH, J. (Oral)

CM No.4420-CII of 2016

This is an application for impleading applicant-Gurbachan Singh Uppal as respondent No.19.

Heard.

Applicant-Gurbachan Singh is ordered to be impleaded as respondent No.19 in the present revision petition.

CR No.6722 of 2015 (O&M)

The present revision petition has been preferred against the order

Rule 17 CPC for amendment of plaint has been dismissed.

It is not disputed that the respondents have projected the Will dated 18.9.2014 in the written statement as well as the counter claim. It is also not disputed that the petitioners have already filed the replication/reply to the counter claim wherein the said Will has been disputed. The reply to the counter claim and the replication is also a part of pleading wherein the said Will has already been challenged. So, there will be no further necessity to amend the plaint to challenge the said Will.

Learned counsel for the petitioners has stated that the trial Court has not even framed any issue regarding the validity of the said Will as it is the duty of the defendant-respondents to prove the valid execution of the Will.

Learned counsel for the respondents has conceded that the specific issue regarding the validity of the Will dated 18.9.2014 should have been framed by the learned trial Court. He further stated that in case the plaintiff-petitioners move any application for framing the additional issue with respect to the Will they will have no objection.

So, the present revision petition is disposed of with the aforesaid observations. The petitioners shall be at liberty to move an application for framing additional issues with respect to the validity of the Will before the learned trial Court and in view of the concession made by learned counsel for the respondents, the learned trial Court will frame the said issue regarding the validity of the Will. The onus to prove of which shall be on the defendant-respondents projecting the Will.

December 12, 2016

ps

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned

: Yes/No.

Whether reportable

: Yes/No.