

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 6609 of 2014 (O&M)

Date of decision: January 29,2016

Kuldip Singh

.....Petitioner

VS.

Surjit Kaur and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr. Kewal Krishan, Advocate for
Mr. Premjit Kalia, Advocate
for the petitioner.

Mr. Sandeep Singhal, Advocate
for respondents No. 1,2 and 3.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?Yes
3. Whether the judgment should be reported in the Digest?Yes

K.KANNAN,J (Oral)

1. A procedure to be followed in a situation where the witness in the Will is won over or is unwilling to support the person who wants to prove the Will shall only be to summon him through coercive process if necessary and if he can convince the court the witness is hostile or won over, take permission of the court for cross-examination and elicit what is necessary. The proof of signature of an attestator arises under Section 69 of the Evidence Act only when the witness cannot be found. Where the witness is alive, there is no question of proof of signature of an attestator otherwise than through the person, who has attested the

document. The attempt of the plaintiff was to prove the signature through an expert by bringing a comparison of the signature found in some document with the signature found in the Will propounded by the plaintiff. Such a process, even if successful, can prove nothing legally worthwhile and cannot bring any source of solace for the plaintiff who has the compulsion under Section 68 of the Evidence Act to call at least one attesting witness to prove the attestation. The attempt to prove the signature by an expert is an exercise in futility. There is no justification for such an application. The revision petition is dismissed.

JANUARY 29, 2016

Rajeev

**(K.KANNAN)
JUDGE**