

CR-689-2016

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IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-689-2016

Date of decision : 01.02.2016

Prem Chand Mehta

... Petitioner

Versus

Punjab National Bank, Bagdadi Gate, Ferozepur City and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Nitish Garg, Advocate
for the petitioner.

REKHA MITTAL. J.(ORAL)

The present petition lays challenge to order dated 24.12.2015 (Annexure P1) passed by the Additional Civil Judge (Senior Division), Ferozepur whereby application moved by the petitioner for permitting him to summon the file containing original Will has been rejected.

Counsel for the petitioner contends that the petitioner was allowed one effective opportunity to conclude his evidence for examination of the scribe and attesting witnesses of the Will dated 24.09.2002 vide order dated 02.11.2015 passed by this Court in CR-7264-2015. It is further submitted that all the three witnesses were present before the trial Court for their examination but as the original Will was not available in the file summoned from Judicial Record Room, the witnesses could not be examined. It is further argued that as the petitioner is not keeping good health and could not get proper assistance to submit the particulars of

correct file in which the original Will is available, thus, a serious prejudice would be caused to him for his failure to examine the three witnesses despite permission by this Court and deposit of ₹5000/- in compliance with order passed by the Court. It is prayed that another opportunity may be provided to the petitioner to summon the correct file from the judicial record room and examine the scribe and attesting witnesses of the Will and he would ensure that the file containing the Will and all the three witnesses are available in the Court to complete evidence of the petitioner.

I have heard counsel for the petitioner and perused the records.

No doubt, the petitioner has not availed the benefit of order dated 02.11.2015 passed by this Court as he could not ensure availability of judicial record wherein the original Will is appended. However, in view of the observations by this Court in order dated 02.11.2015, coupled with the submissions made by counsel for the petitioner, another opportunity is allowed to the petitioner to summon the file from the Judicial Record Room containing the original Will and examine the witnesses, allowed to be examined vide order dated 02.11.2015 subject, however, to payment of costs of ₹10,000/- to be deposited with the District Legal Services Authority, Ferozepur.

Disposed of.

February 01, 2016.
Davinder Kumar

(REKHA MITTAL)
JUDGE