

**In the High Court of Punjab and Haryana
at Chandigarh**

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Civil Revision No. 7362 of 2016 (O&M)

Date of Decision: 07.11.2016

Gurcharan Singh and another

---Petitioners

versus

Baljit Kaur etc.

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Manish Kumar Singla, Advocate
for the petitioner

-. -

Rekha Mittal, J.

The present petition directs challenge against order dated 25.10.2016 passed by the Civil Judge (JD) Sunam whereby Will dated 18.11.1986 marked as Ex. P2 has been ordered to be treated as Mark 'A'.

The sole submission made by counsel for the petitioners is that once the document has been marked as an exhibit in the statement of Amarjit Singh Joshi, Deed Writer, Tehsil Sunam (PW1) and counsel for the respondents/defendants has also conducted a part of the cross examination and thereafter raised objection against Ex.P2, the trial Court should have left the objection open to be decided at the time of final disposal of the suit in place of making a decision in between. In addition, it is argued that there is no provision in law for treating the document as mark, therefore, the impugned order is liable to be set aside.

I have heard counsel for the petitioners and perused the paper

book particularly the impugned order.

On a pointed query raised by the Court, counsel for the petitioners is not in a position to refer to any provision in law dealing with marking of a document as an exhibit or mark. It appears that a document is marked as an exhibit or mark so that it can be easily identified, referred to at different stages of the proceedings.

In the case at hand, the petitioners examined Amarjit Singh Joshi, Scribe of registered Will dated 18.11.1986 propounded by them. Counsel for the petitioners has not disputed that Will can be proved either in accordance with the provisions of Section 68 or 69 of the Indian Evidence Act, 1872 (in short, 'the Act') as the case may be, with Section 63(c) of the Indian Succession Act, 1925. It is also undenied that as Amarjit Singh Joshi is not an attesting witness of the Will nor he had appeared in the witness box to prove the Will in accordance with Section 69 of the Act, objection raised by the contesting party qua mode of proof and decided by the trial Court by a short order would not cause prejudice to the petitioners, who would rather be entitled to lead further evidence in accordance with law to prove the Will propounded by them. In this view of the matter, I do not find any error much less illegality in the impugned order warranting intervention.

Dismissed *in limine*.

(Rekha Mittal)
Judge

November 07.11.2016

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No