

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.838 of 2016
Date of Decision: May 09, 2016

Hawa Singh

...Petitioner

Versus

Balwant Singh @ Raja & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Ashwani Bakshi, Advocate,
for the petitioner.

Mr.Sanjiv Kumar Aggarwal, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order, whereby he sought to place the onus of issue No.1 on the defendant on the premise that the Will has been propounded by the defendant, though there is a challenge of the same in the suit.

Mr.Ashwani Bakshi, learned counsel appearing on behalf of the petitioner-plaintiff submits that initially the onus is on the plaintiff, who has challenged the Will in favour of the defendant. In support of his submission, relies upon the ratio decidendi culled out in **Anil Rishi Versus Gurbaksh Singh, 2006(3) R.C.R. (Civil) 347** and as well as the provisions of Sections 101 and 102 of the Indian Evidence Act.

I have heard the learned counsel for the parties and appraised

the paper book.

No doubt, the onus of proving the Will is on the propounder of the Will. In case it is challenged, some part of onus is required to be discharged by the plaintiff vis-a-vis the circumstances and thumb impression/signature of the propounder and it is shifted upon the defendant, who is a propounder. Thus, the aforementioned issue is to be treated as onus of the parties instead of completely placing onus on the plaintiff.

Accordingly, issue No.1 is being treated as “onus of respective parties” instead of only of respondents.

The revision petition stands disposed of with the aforementioned observations.

May 09, 2016
ramesh

(AMIT RAWAL)
JUDGE