

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8356 of 2014
Date of decision : May 11, 2016

Amrik Singh Bedi

..... Petitioner

Versus

Jagdeep Singh Bedi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. G. S. Sirphikhi, Advocate
for the petitioner.

Mr. Amrik Singh Rattniya, Advocate
for respondent Nos. 1 to 5 and 8.

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?

Amit Rawal, J (oral).
CM No.9895-CII of 2016

C.M.is allowed.

Annexure R-1 to R-12 taken on record.

CR No. 8356 of 2014

The petitioner-plaintiff is aggrieved of the dismissal of the application seeking interference of the Court for appropriate direction to the defendants for scientific DNA test in a suit for declaration to the effect that plaintiff is claiming ownership with regard to the estate of Kehar Singh Bedi.

Learned counsel appearing on behalf of the petitioner submits that defendant in the written statement denied

paternity whereas petitioner-plaintiff is the son of Kehar Singh and brother of the defendant Nos. 1 to 7. The dispute arose after demise of Kehar Singh Bedi and when the entire property got mutated in favour of defendants, therefore necessity arose to file the suit claiming right.

The Courts below erroneously dismissed the application holding therein that application had been filed at a belated stage whereas it should have been moved at the stage when the plaintiff's evidence was lead, thus urges this Court for setting aside the impugned order.

Learned counsel appearing on behalf of respondent Nos. 1 to 5 and 8 submits that plaintiff failed to lead evidence in affirmative and in the absence of any rebuttal issue and when the suit is at the stage of defendant's evidence, the application was not maintainable, thus prays for affirming the impugned order.

I have heard learned counsel for the parties, appraised the paper book and of the view that once the defendants have set up a plea of Will and additional issue was framed on 18.9.2013, the appellant-plaintiff though would have lead the evidence in rebuttal but not at the stage of defendants' evidence but the fact remains that owing to denial of paternity of petitioner, there is no other mode or manner of proving the same except through a DNA test. For the sake of brevity, the issues and additional issues reads thus:-

- 1. Whether the plaintiff is entitled to the declaration as prayed for?OPP*

2. Whether the plaintiff is entitled to the consequential relief of permanent injunction as prayed for?OPP

3. Whether the plaintiff has got no cause of action to file the present suit?OPD

4. Whether the suit is not maintainable in the present form?OPD

5. Whether the suit is bad for non-joinder of necessary parties?OPD

6. Relief.

Additional issue:

“Whether Kehar Singh Bedi executed a valid registered Will dated 12.7.2001 as alleged?OPD”

The finding rendered by the trial court regarding moving the application at a belated stage is neither here nor there. Accordingly, the impugned order is set aside. The application is allowed but the aforementioned test would be done at the time when the plaintiff would be given right of rebuttal evidence qua the additional issue.

The civil revision stands allowed.

(AMIT RAWAL)
JUDGE

May 11 , 2016
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