

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**243**

**CR-2253-2015**

**Date of Decision:18.05.2017**

**Tara Singh(deceased) through his LR**

**.....Petitioner**

**Versus**

**Surinder Kaur and another**

**.....Respondents**

**CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.**

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

**Mr.S.S.Swaich, Advocate,  
for respondent Nos.1 and 2.**

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**RAMESHWAR SINGH MALIK, J.(Oral)**

Feeling aggrieved against the impugned order dated 23.03.2015 passed by the learned trial Court, whereby application of the plaintiff for permission to examine finger print and hand-writing expert to prove the Will dated 15.11.2009 was dismissed, plaintiff-petitioner has approached this Court by way of present revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that plaintiff-petitioner did not challenge the validity of Will dated 15.11.2009. It is so said because the Will was in favour of the plaintiff. Further, no issue has been framed by the learned trial Court regarding the validity of Will dated 15.11.2009, which is again a matter of record. However, it is surprising to

note that both the parties are contesting this unwarranted litigation before this Court contesting their respective rights to lead evidence, with a view to prove and disprove the validity of the Will in spite of the fact that it is not under challenge in the suit filed by the petitioner-plaintiff.

In view of the above and to cut the controversy short, it is made clear that the evidence led by both the parties on the validity of the Will dated 15.11.2009 would be of no consequence because the Will is not under challenge in the suit filed by the plaintiff-petitioner. It is also pertinent to note here that the Will dated 15.11.2009 came into picture between the parties only for the limited purpose of impleading the legal representatives of Tara Singh, executant of the Will. That fact would never bring the validity of Will in question. Neither the plaintiff-petitioner nor the defendants-respondents are propounders of the Will in the present litigation and rightly so, because nobody has challenged the validity of this Will so far.

In view of the above-said undisputed fact situation obtaining on the record of the case and with observations made here-in-above, instant revision petition is disposed of, upholding the impugned order passed by the learned trial Court, however, with no order as to costs.

Disposed of accordingly.

May 18, 2017  
seema

(RAMESHWAR SINGH MALIK)  
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No