IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

125

CR No.2109 of 2017
Date of decision: 25.07.2017

Avtar Singh ...... **Petitioner**

Versus

State of Punjab and others ...... **Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sandeep Bansal, Advocate
for the petitioner.

*****

ANIL KSHETARPAL, J. (ORAL)

Plaintiff has filed present revision petition under Article 227 of the Constitution of India challenging the order dated 08.12.2016 allowing application under Order 1 Rule 10 filed by the Government High School and Gurudwara Sahib.

Plaintiff has filed a suit seeking claiming succession to property of late Sh. Sohan Singh. Plaintiff had filed a suit for declaration that the plaintiff is adopted son of Sohan Singh and is entitled to inherit the estate of late Sh. Sohan Singh under the Will dated 10.05.2000. Applicants had moved an application for impleadment on the ground that late Sh. Sohan Singh had executed a Will in their favour on 24.05.2000.

Learned trial Court after considering all aspects of the matter chose to allow the application filed by the applicants. The operative part of the order reads as under:-

> *"The perusal of record shows that applicant have contended that deceased Sohan Singh had executed a Will*

dated 24.05.2000 in their favour and so they must by impleaded as party in the present case which has been filed by the plaintiff seeking the property of Sohan Singh on the basis of another Will dated 10.05.2000. It is not denied that the claim of the applicants was already dismissed by the Revenue Courts including a decision made by Commissioner, Jalandhar.

However, the said finding of the Revenue Courts is not binding on the Civil Courts and the Civil Court has to reach a fresh finding regarding the rights of the parties involved. Both the plaintiff and the applicants have relied upon separate Wills of deceased Sohan Singh. Now, it is the duty of the Court to determine the validity of these Wills, which can be only one if the parties are given a chance to lead evidence with regard to their respective wills. So, in order to reach a just conclusion of the present caes, it appears that the applicants are necessary parties to the present case as their rights arising out of the Will alleged by them also need to be determined while deciding the inheritance of deceased Sohan Singh. As such, the application at hand is allowed and the applicants are impleaded as defendants No.3 and 4 in the present suit. Now, to come up on 20.12.2016 for filing of power of attorney and written statement on behalf of the impleaded defendants. Amended head note be also filed on the date fixed."

Plaintiff has challenged the aforesaid order and has claimed that the application was filed at a belated stage. Counsel for the petitioner has further submitted that once before the Revenue Authorities Will dated 24.05.2000 had been adjudicated upon and rejected, therefore, the applicants had no locus standi to file an application for impleadment.

I have heard learned counsel for the petitioner with his able assistance and gone through the paper book.

The suit was instituted on 04.09.2012. Dispute is with regard to estate of late Sh. Sohan Singh. Plaintiff claims that he is adopted son whereas applicants claim that the estate was inherited by them on the basis of the Will dated 24.05.2000. The Will dated 24.05.2000 in favour of Government High School, Nainowal Jattan and Gurudwara Sahib Nainowal Jattan. The suit is pending. The dispute for adjudication on inheritance of estate of Sohan Singh is pending. Therefore, the application filed by the applicants cannot be said to be belated.

Second submission of learned counsel is that since Revenue Authorities had rejected the Will and refused to sanction mutation on the basis of the Will dated 24.05.2000, therefore, the aforesaid order has become final and the applicants have no locus standi.

Sanction of mutation is an executive function of Revenue Officers while sanctioning the mutation, Revenue Officer do not function as a Court. It is one of their administrative function. Any adjudication on the part of the Revenue Officer with regard to validity of Will is always subject to final decision of the Civil Court. Therefore, the argument of learned counsel for the petitioner that the order of Revenue Officer has become final, has no force.

Learned counsel for the petitioner has, at this stage, come up with a submission that an observation of the trial Court/order passed by the Revenue Officer shall come in his way at the time of final decision of the suit.

I have considered the submission. Any observation made by the Court at the time of disposal of the interim application would not bind the Civil Court while delivering the final judgment. It will open to the plaintiff to take all possible objections as are available to him under the law.

Revision petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

25.07.2017
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No