

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

Civil Revision No.2604 of 2017

Date of decision:- April 17, 2017

SATJIT SINGH

...PETITIONER..

VERSUS

NARNDERJIT SINGH AND OTHERS

...RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Sham Lal Bhalla, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through instant petition preferred under Article 227 of the Constitution of India, the petitioner has sought setting aside/modification of order dated 28.07.2016 whereby an application under Order XIV Rule 5 CPC has been allowed as well as another order dated 05.11.2016 passed by Civil Judge(Junior Division) Ludhiana whereby second application moved under Order XIV Rule 15 CPC by the petitioner for framing additional issues, has been declined.

2. The contention of learned counsel for the petitioner is that since all the necessary issues arising out of the pleadings of the parties were not framed by the ld. Trial court, he was constrained to file another application for framing additional issues arising out of the pleadings of the parties, which were otherwise also necessary to decide the matter in controversy between the parties by way of passing of a single judgment. In fact, the

issues already framed or freshly framed vide order dated 28.07.2016 do not cover all the issues arising out of the pleadings of the parties and by way of second application, certain proposed issues were sought to be framed by the trial court, fully reflected in the application (Annexure P-4). However, the said application has been declined without any rhyme and reason by the trial court. In case, non-framing of the proposed issues, the petitioner/defendant No.1 is likely to be greatly prejudiced as he would not be in a position to adduce proper and effective evidence.

3. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be without any legal and factual weight.

4. Undoubtedly, the petitioner moved an application under Order XIV Rule 5 CPC for framing additional issues on the basis of pleadings and that application was partly allowed by the ld. Trial court vide impugned order dated 28.07.2016 and the trial court was pleased to frame the following additional issues:-

“3A Whether the Will dated 09.03.1998 executed by Manjit Kaur in favour of Shiv Dev Singh is valid? OPD

3B Whether the Will dated 10.03.2004 executed by Shiv Dev Singh is valid? OPD

3C Whether the suit is not maintainable being barred by limitation? OPD”

5. This Court is of the considered view that framing of proposed additional issues is not at all necessary because all the controversy and material issues have already been culled out by the ld. Trial court. Moreover, the object of framing issues is to focus upon questions on which

the evidence has to be led and to indicate the party on whom burden of proof lies. Even otherwise, it can be said that parties are not aware about the controversy. Filing of application for framing additional evidence is nothing but a noble device adopted by the petitioner/defendant No.1 to delay the disposal of the suit.

6. Thus, this Court does not find any illegality, impropriety and perversity in the impugned orders so as to call for any interference by this Court. In fact, the instant petition is nothing but an abuse of the process of law and is without any merit. As such, the same is dismissed.

7. No order as to costs.

April 17, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No