

In the High Court of Punjab and Haryana at Chandigarh

255

CR No. 3064 of 2016 (O&M)

Date of decision: 6.9.2017

**Sukhdev Singh deceased through LRs Jaswant
Kaur and anr.**

.....petitioners

Versus

Gurbax Singh and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Prateek Pandit, Advocate,
for the petitioners.

Mr.Siddharth Sharms, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J (oral)

Vide order dated 7.10.2015, issues were re-framed by the trial Court. Plaintiff is not aggrieved by the said order. Defendant No.1 filed an application for re-casting of issue No.5 to the following effect:-

“Whether the Will dated 6.3.1972 allegedly executed by Bhan Singh in favour of his son Joginder Singh and Gurmit Singh is invalid and forged document ?
OPP.”

Evidently, the suit filed by the plaintiff does not contain any such prayer for declaring the Will dated 6.3.1972 to be forged and fabricated. Defendants, while filing the written

statement, relied upon the said Will in para No.5 of the preliminary objections.

In view of Section 101 of the Evidence Act, the onus to prove the relevant fact is always on the party who asserts in affirmative. Hence, the onus to prove issue No.5 would be on the defendant in the context of its validity and genuineness.

In view of above, there is no scope for interference in this revision petition. The same is accordingly dismissed. However, the trial Court shall decide the controversy purely on merits without being influenced by any observation made herein.

(RAJ MOHAN SINGH)
JUDGE

September 06, 2017

anita

Whether reasoned/speaking

Yes/No