

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

CR-3745 of 2015

Date of Decision: 17th July, 2017

HARPAL SINGH

...Petitioner

V/S

LAKHVIR SINGH & ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.S. Barnala, Advocate
for the petitioner.

Mr.P.K.S. Phoolka, Advocate
for the respondents No.1.

ANIL KSHETARPAL, J. (Oral):

Plaintiff has filed the present revision petition under Article 227 of the Constitution of India, challenging the order dated 21st April, 2015 passed by the Civil Judge (Senior Division), Barnala, dismissing the application seeking amendment of the plaint.

Originally, plaintiff has filed a suit for declaration declaring that the plaintiff is owner in possession of land described in the head note of the plaint. Plaintiff had claimed to be owner of the property on the basis of a registered Will dated 14th November, 2008. Plaintiff had also pleaded in Para 6 of the plaint that the Will set-up by defendant No. 1 is fake and it was never executed by late Smt Surjit Kaur. The suit was filed on 5th April, 2012.

Plaintiff had filed an application seeking amendment of the plaint to the effect that now he wants declaration that the plaintiff and defendant No.2 are owners in possession of half share of the suit property. Plaintiff further wants to add the relief that the, Will dated 13th October, 2010 be declared

forged and fabricated.

I have considered the submissions made by learned counsel for the parties. In my considered opinion, once plaintiff has filed a suit claiming ownership on the basis of the Will dated 14th November, 2008, then the present amendment is wholly unnecessary. The Court is to decide the dispute in accordance with the pleadings and the evidence led by the parties. The claim of the plaintiff is based upon the Will dated 14th November, 2008. If the Will provides for succession in favour of plaintiff and defendant No.2, the Court would grant the same.

Therefore, in my considered opinion, the first amendment sought by way of this application, is wholly unnecessary. Plaintiff has further pleaded in the original suit that the Will dated 13th October, 2010 is fake and it was not executed by late Smt. Surjit Kaur. Once this fact has already been pleaded, further pleadings to this effect are not necessary.

The basic issues involved in the suit are with regard to validity of Will dated 14th November, 2008 and 13th October, 2010 and necessary pleadings to that effect are already available on the file.

Therefore, in my considered opinion, no interference is required in the order passed by learned Civil Judge (Senior Division), Barnala, dated 21st April, 2015.

The present revision petition is dismissed.

(Anil Kshetarpal)
Judge

17.07.2017

Nisha-I

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No