

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

CR No.3937 of 2017 (O&M)
Date of decision : 01.12.2017

Neeraj Mathawan and another

...Petitioners

Versus

Rajesh Mathawan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Munish Puri, Advocate for the petitioners.

Mr. Amit Singh Sethi, Advocate for respondent Nos.1 and 9.

ANIL KSHETARPAL, J.

CM No.14367-CII of 2017

For the reasons stated in the application, which is supported by an affidavit, application is allowed.

The interim orders passed by the trial Court after 30.11.2016, are taken on record, subject to all just exceptions.

Main case

The defendants-petitioners are in revision petition against the order dated 30.11.2016 directing defendant No.1 to produce the original Will-a testamentary document on the next date i.e. on 22.12.2016 failing which he will be precluded from placing reliance on the original Will.

The plaintiffs had filed a suit claiming declaration that they are co-owners alongwith the defendants in the double storied suit premises

comprising of one residential house and three shops.

The defendants contested the suit and setup the Will executed by Late Smt. Devki Rani dated 20.12.1968.

The plaintiffs filed an application requesting the Court to direct the defendants to produce the original Will.

In reply, defendant No.1 submitted that he is resident of United States of America and the original Will is lying with him at U.S.A. He produced a photocopy of the Will and requested the Court to grant him sufficient time, so that he can produce the original Will.

However, the learned Court passed the order noticed above.

On 13.07.2017 while issuing notice of motion, it was ordered that the interim directions issued by the trial Court for production of the original Will shall be subject to the final decision of the present revision petition.

It is not in dispute before me that during the pendency of the revision petition, the original Will has been produced on the record of the learned trial Court.

Now the only prayer is that the original Will should be taken into consideration by the Court while deciding the case.

Keeping in view the facts and circumstances of the present case, in the considered opinion of this Court, the order passed by the trial Court directing defendant No.1 to produce the original Will on 22.12.2016 was harsh and unreasonable. The learned trial Court while issuing directions should have taken into consideration at least the request made by defendant No.1 that the Will is in his possession at United States of America and he

should be granted reasonable time to produce the same.

Keeping in view the aforesaid discussion, the order under challenge dated 30.11.2016 is modified. The original Will produced by defendant No.1 shall be deemed to have been produced within the time as directed by the trial Court. In other words, the time granted by the Court is extended till the date of production of the original Will.

Revision petition is allowed.

01.12.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No