

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 4934 of 2017
Date of Decision:28.7.2017

Jasanpreet Singh @ Jashanpreet Singh

---Petitioner

vs.

Guriqbal Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.S.S.Swaich, Advocate
for the petitioner

Rekha Mittal, J.

The present petition directs challenge against order dated 31.5.2017 (Annexure P-7) whereby application of the petitioner for additional evidence has been dismissed.

Counsel for the petitioner has submitted that Guriqbal Singh-respondent No. 1 has filed a suit for declaration claiming himself and proforma defendants Khushdeep Kaur and Gagandeep Kaur (defendant Nos. 12 and 13 in the suit) to be co-sharers in joint possession of the land in dispute, detailed in head note of the plaint. The petitioner and his brother (defendant Nos. 8 and 7 respectively therein) have set up a registered Will dated 6.8.2003 executed by Gurcharan Singh son of Gurbakhash Singh in their favour. Mother of the petitioner and Arshpreet Singh namely Sukhjit Kaur appeared in the witness box and they examined one of the attesting witnesses of the Will whereas the other attesting witness has died. It is

further submitted that the petitioner and his brother have closed their oral evidence and the case is pending for producing documentary evidence by the defendants. It is argued with vehemence that no prejudice shall be caused to the respondent/plaintiff if the application for additional evidence to examine an official from the office of Sub Registrar/Registering Authority and the petitioner and his brother is allowed. According to counsel, the respondents can well be compensated with cost for delay, if any, attributable to the petitioner when otherwise the petitioner has no intention to delay finalization of the proceedings.

I have heard counsel for the petitioner, perused the paper book and the order impugned.

Concededly, the petitioner and his brother examined their mother Sukhjot Kaur to substantiate their defence raised in the written statement. There is no explanation as to why the petitioner or his brother did not appear in the witness box if they wanted to examine themselves in addition to evidence of their mother. Counsel for the petitioner has fairly informed that one of the attesting witnesses of the Will has been examined and the other attesting witness has passed away. Counsel for the petitioner has failed to convince this Court as to how examination of a witness from Sub-Tehsil Morinda would advance cause of the petitioner to prove Will dated 6.8.2003 when the case is examined in the light of provisions of Section 63 of the Indian Succession Act and 68/69 of the Indian Evidence Act. In this view of the matter, I do not find merit in contention of the petitioner that the petitioner is likely to suffer any loss much less injustice in case he is not permitted to adduce evidence in terms of the application for

additional evidence dismissed by the trial court. I would hasten to add that there is no dispute about settled position in law that delay itself may not constitute a good ground to shut right of a party to adduce evidence that is material for just decision of the case.

For the foregoing reasons, the petition fails and is accordingly dismissed.

(Rekha Mittal)
Judge

28.7.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No