

CR No. 6400 of 2017

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

**CR No. 6400 of 2017
Date of Decision: 20.9.2017**

Gurbax Singh

.....Petitioner

Vs.

Gurpreet Kaur alias Rani and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the order dated 8.8.2017 (Annexure P-1) passed by the learned trial court, whereby additional issue No. 3-A was framed, defendant No.2 has approached this Court by way of present revision petition under Article 227 of the Constitution of India.

Heard learned counsel for the petitioner.

It is a matter of record that at an earlier point of time, petitioner himself moved an application before the learned trial court in the present suit itself, permitting him to lead secondary evidence qua Will dated 20.10.1960. Said application moved by the petitioner was declined by the learned trial court vide its order dated 14.7.2014 (Annexure P-7). However, later on, an

application was moved by the plaintiffs for re-casting the issues. Notice of the said application was issued to the defendants. After hearing learned counsel for the parties and appreciating the necessity for recasting the issues, learned trial court came to be conclusion that recasting of issues was necessary for effective adjudication of the controversy between the parties.

Admittedly, entire controversy involved between the parties is revolving around the Will dated 20.10.1960, allegedly executed by Sh. Amar Singh. In fact, by passing the impugned order, earlier prayer made by defendant No.1-petitioner has been granted by the learned trial court. It goes without saying that both the parties shall be granted sufficient opportunity to lead their respective evidence on additional issue No.3-A. It does not appeal to reason as to why the petitioner has challenged the present impugned order because, as noticed hereinabove, it was his own prayer made at an earlier point of time. Having said that, this Court feels no hesitation to conclude that the learned court below was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

A bare perusal of the impugned order shows that no prejudice has been caused to the petitioner by framing of additional issue No.3-A. The learned trial court rightly arrived at a judicious conclusion to the effect that it was necessary to frame this additional issue No.3-A for effective adjudication of the rights of the parties, which would be dependent on effective finding qua Will dated 20.10.1960. Under these circumstances, no fault can be found with the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order,

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which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

20.9.2017
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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