

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CR-6461 of 2017

Date of Decision:21.09.2017

Jabarjang Singh

.....Petitioner

Versus

Rajinder Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Ms.Ritu Punj, Advocate,
for the petitioner.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the impugned order dated 21.07.2017 (Annexure P-15) passed by the learned trial court, whereby application of the plaintiffs moved under Order 23 Rule 1 read with Section 151 of the Code of Civil Procedure was allowed, permitting the plaintiffs to withdraw their suit with liberty to file a fresh one on the same cause of action, defendant No.1 has approached this Court by way of present revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

It has been specifically recorded by the learned trial court at page 66 of the paper-book that it is not only plaintiff Nos.1 and 3, who are beneficiaries of the Will dated 30.05.2008 executed by late Sh.Mohinder Singh but it is defendant No.1-petitioner also, who is beneficiary of the

same Will. Once this is the undisputed fact situation obtaining on record of the present case, no fault can be found with the impugned order passed by the learned trial court. It is so said because in the absence of proper challenge to the Will dated 30.05.2008, beneficiaries thereof including the present petitioner, would be unable to get any benefit out of the said Will. Further, not only suit of the plaintiffs would fail because of formal defect but the petitioner-defendant No.1 shall also be loser outrightly. Had the petitioner-defendant No.1 not been beneficiary of the same Will, matter would have been different. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

So far as the judgments of this Court in Vinod Kumar Versus Gurdev Singh and others, 2016(2) PLR 329, Bansi Lal Clarence Versus United Church of Northern India Trust Asse. Regd. Office, Bombay, 1995(1) PLR 139, Municipal Committee Versus Bala Nand, 1992(2) LJR 715, Baru Ram Versus Baldeva, 1994(1) PLR 141, Balwinder Singh Versus Sukhwinder Singh, 2016(2) PLR 632, Parsin Kaur and others Versus Harjinder Singh and others, 2014(36) R.C.R.(Civil) 938 and Chander Versus Mohinder and others, 2013(1) PLR 221, relied upon by the learned counsel for the petitioner are concerned, there is no dispute about the observations made and law laid down therein. However, on a close perusal of the cited judgments, none of them has been found to be of any help to the petitioner, being distinguishable on facts.

It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one

circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in Padmasundara Rao (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned trial court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found based on 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 the 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 above-said observations made, instant revision petition stands dismissed, however, with no order as to costs.

September 21, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No