

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

CR No.8162 of 2016

Date of Decision:13.12.2017

Chain Singh

...petitioner

Versus

Sammitari Devi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Sanjeev Pandit, Advocate for the petitioner.
Mr.R.S.Bajaj, Advocate for respondent No.16.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in the revision petition against the order, dismissing the application for permission to amend the plaint.

Plaintiff had filed a suit, claiming estate of Baj Singh, on the basis of natural succession. It was asserted in the plaint that Krishan Singh has got sanctioned the mutation on the basis of alleged oral Will dated 7.7.1974.

In defence, defendants submitted that there was a Will executed by Baj Singh on 7.7.1974 in favour of Kishan Singh son of Baj Singh..

When the case was ripe for arguments, plaintiff filed an application for permission to amend the plaint so as to assert as under:-

*“That factum and validity of the will dated 07-07-1974
on the basis of which mutation No.891 has been sanctioned
strictly denied for want of execution & proof and is forged,
fabricated & manufactured and does not create any right of*

title and the entries reflected in the revenue record on the basis of mutation are illegal.”

The learned trial court dismissed the aforesaid application.

It is well settled that prepounder of the Will is always required not only to prove the Will but also bound to dispel all suspicion circumstances. The plaintiff is not required to negatively plead that the Will is forged and fabricated.

Taking into consideration the aforesaid facts, the amendment sought for was wholly unnecessary. Accordingly, the instant revision petition is dismissed.

13.12.2017
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No