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

Sr. No.101

**Civil Revision No.7897 of 2014
DECIDED ON: March 16, 2017**

MANDEEP SINGH AND ANOTHER

..PETITIONERS

VERSUS

AMRIK SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vijay Sharma, Advocate,
for the petitioners.

Mr. H.S. Tulsi, Advocate and
Mr. S.S. Rangi, Advocate,
for respondent No.1.

JASPAL SINGH, J.

By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioners have sought the quashing/setting aside of order dated November 01, 2014 passed by the learned Civil Judge (Jr. Divn.) Patiala, whereby an application dated October 16, 2014 filed by Amrik Singh-defendant No.1 for adducing additional evidence has been allowed.

2. While assailing the impugned order, it has been argued with vehemence by learned counsel for the petitioners that allowing of the additional evidence is not permissible on account of the fact that the defendants-respondents had set up an unregistered Will dated July 25, 2004 which is alleged to have been scribed by Darshan Singh. Otherwise also, the evidence of the defendants has already been closed by the orders of the court. The petitioners/plaintiffs during the course of their evidence have already been examined Mr. Navdeep Gupta, Handwriting and Finger Prints Expert as PW3, Darshan Singh as PW4 scribed of the Will and Mr. Navdeep Gupta, Handwriting and Finger Prints Expert again as PW5 in rebuttal. Now the defendants intend to examine Ms. Rana Bansal, Handwriting and Finger Prints Expert who has already been examined by them as DW-3. She has already given her opinion regarding disputed signatures of Darshan Singh on the Will as well as the mutation proceedings which is the subject matter of the lis.

3. Here it would be pertinent to mention that the evidence of the defendants have already been closed by the orders of the court and the said order has attained finality as no revision against the said order was filed. Thus, the impugned order whereby the additional evidence has been allowed is unsustainable in the eyes of law and is liable to be set aside. In fact, there was no occasion for the defendants to further produce evidence in rebuttal to the rebuttal. To buttress his contention, learned counsel for the petitioners has relied upon the judgment captioned as “*Dilsher Singh and ors. vs. Manjit Inder Singh*” 1990(2) PLR 136 and “*Sukhdev Singh vs. Gurmukh Singh*” 1998(2) RCR (Civil) 113.

3. On the other hand, learned counsel for the respondent has supported the impugned order submitting that there is no infirmity or illegality in the impugned order and the same is absolutely inconsonance with the legal proposition. Since the petitioners/plaintiffs have won over Darshan Singh PW-4, scribed of the Will dated July 25, 2004 and has examined him as PW4 in rebuttal, the defendants-respondents have rightly been permitted to lead the additional evidence to rebut the evidence adduced by the petitioners-plaintiffs in rebuttal.

4. After bestowing due consideration to the aforesaid rival submissions made learned counsel for the parties and appraisal of the impugned order, this court finds support in the submission made by learned counsel for the petitioners.

5. Undoubtedly, the evidence of the defendants was closed by the orders of the court, as they failed to conclude their evidence despite availing numerous opportunities vide order dated April 02, 2014. The burden to prove the execution of the Will dated July 25, 2004 heavily lies upon the defendant No.1 and to discharge the same, the defendant No.1 has already led the evidence. However, to rebut the evidence adduced by the defendants, the plaintiffs have examined Mr. Navdeep Gupta, Handwriting and Finger Prints Expert as PW3, Darshan Singh as PW4 scribe of the alleged unregistered Will and Mr. Navdeep Gupta, Handwriting and Finger Prints Expert again as PW5 in rebuttal. It was only thereafter, the defendant No.1 filed application dated October 16, 2014 seeking permission to lead additional evidence thereby intending to examine Ms. Rana Bansal, Handwriting and Finger Prints Expert, which has been allowed vide

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impugned order dated November 01, 2014. The expert, if any, was required to be examined by the defendant No.1 in their affirmative evidence and the defendants have already done so by examining DW-3 Ms. Rana Bansal, Handwriting and Finger Prints Expert. Thus, allowing of additional evidence that too, after the closure of evidence by the orders of the court which otherwise has attained finality is not permissible under law. Rather, it amounts to allowing of rebuttal to the rebuttal evidence, which is unheard of in judicial circles. Both the judgments captioned as “*Dilsher Singh and ors. vs. Manjit Inder Singh*” 1990(2) PLR 136 and “*Sukhdev Singh vs. Gurmukh Singh*” 1998(2) RCR (Civil) 113 also fully attracted and covers the case of the petitioners.

6. In the light of what has been discussed above, instant revision petition is allowed whereby the impugned order dated November 01, 2014 is set aside.

March 16, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**