

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

**C.R. No.1156 of 2018 (O&M)
Date of Decision: February 20, 2018**

Mahabir Parshad

...Petitioner

Versus

Balbir Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sat Narain Yadav, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

This is a revision petition by petitioner/Mahabir Parshad against order dated 06.02.2018 (Annexure P/7) passed by the Court of learned Additional Civil Judge, (Senior Division), Narnaul dismissing the application for additional evidence moved by the plaintiff.

Upon hearing learned counsel for the petitioner and perusing the records of the case.

It is the case of the petitioner himself that he is as a plaintiff before the Court below propounded the Will of his father and, thus, lay claim to the property in dispute seeking exclusion of defendants from succession. The stand of the defendants was that the Will was forged and fabricated document. The petitioner plaintiff led evidence and, thereafter, the matter was adjourned for the evidence of the defendants and during which the instant application for additional evidence was moved for examining Handwriting and Finger Expert which stood dismissed. The own

stand of the plaintiff that he has set up a Will and being its propounder it was well within the knowledge of the plaintiff to have proved the said document beyond reasonable doubt when it is there in the pleadings of the defendants that the Will is forged and fabricated document. Thus, implies that plaintiff was fully aware that he has to prove the Will but failed to do so and at this stage when the defendants have examined part of the evidence has moved an application to undo the case of the defendants and his application appears to be not bonafide as he is trying to fill in lacuna in this case and bring about evidence which he could not bring about having been fully aware of the stand of the defendants and the fact that he was supposed to prove the Will in question. The learned Court below has rightly held that at this juncture, the plaintiff cannot be allowed to revert his stand and open up a new case. Apparently, there is no merit in the instant petition the same as such stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

February 20, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No