

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

**CR No.1650 of 2018 (O&M)
Date of decision : March 13, 2018**

Nirmal Singh

..... Petitioner

Versus

Gurmeet Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. D.D. Gupta, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 01.02.2018 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.) S.A.S . Nagar, Mohali, vide which permission to lead secondary evidence regarding the Will dated 12.07.1991 was declined.

I have heard learned counsel for the petitioner and have also examined the case file.

It comes out that in the written statement, though it is mentioned that Nand Singh executed a Will but the date of the Will was not mentioned nor it was mentioned whether it was registered or unregistered Will. The name of the attesting witnesses of the Will were also not mentioned. No copy of the Will was attached with the written statement. Now, at the stage of evidence, an application has been moved to lead secondary evidence regarding the said unregistered Will, stating that the same was attached with the mutation No.1668 on 14.11.1994 but now record of the said mutation is not traceable. The photostat copy of the Will was attached with the application.

The trial Court has taken the view that the date of the Will was not mentioned in the written statement nor copy thereof was attached with the written statement nor it is the case in written statement that the Will executed by Nand Singh has been lost.

From the photocopy of the Will, the opposite party will not be able to get thumb impression of the deceased Nand Singh compared with the standard thumb impression. Even from the mutation record, there is nothing on file to show that the Will was still lying with the said mutation record.

It being so, there is no illegality or infirmity in the impugned order. As such, the present revision petition is dismissed.

However, the learned counsel for the petitioner has contended that the mutation record is being traced out and that he may be granted liberty to produce the original Will, if the same is traced from the mutation record.

It being so, it is directed that if the Will is traced out at later stage, the defendant shall be entitled to produce the same, if necessary, by filing an application for additional evidence before the disposal of the suit.

Since, the main revision petition has been dismissed, therefore, the pending application, if any, also stands disposed of

(KULDIP SINGH)
JUDGE

March 13, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No