

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3276-2016 (O&M)

Date of decision : 30.01.2018

Amarjit Singh

..... Petitioner

Versus

Avtar Singh and ors

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Akhilesh Vyas, Advocate for the petitioner.
Mr. Vinay Kumar, Advocate for respondents No. 1 and 2.
Mr. P.S. Sobti, Advocate for respondent No. 3.

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)

Heard.

Petitioner filed a Civil Suit for declaration that he is one of the surviving legal heir of one Swarn Singh (since deceased) and is entitled to 1/3rd share in his land. It was claimed by the plaintiff along with defendants No. 1 and 2, are sons of Swarn Singh. The said relationship was denied. After framing the issues, the evidence of the plaintiff was recorded. When the case was at the stage of evidence of the defendants, the present application was filed for permission to conduct the DNA test of the plaintiff and defendants and also prove the said DNA report.

The trial Court dismissed the application on the ground that the case is fixed for the evidence of the defendants. If the application is allowed it may amount to fixing the case again for the evidence of the plaintiff for which there is no prayer at all. Learned trial Court concluded that in fact additional evidence is sought to be led, without making any prayer for the same.

After going through the impugned order dated 20.2.2016 (Annexure P-1), passed by learned Civil Judge, (Junior Division), Ajnala, I concur with the view taken by the trial Court. DNA evidence is an evidence to be led by the plaintiff. It was to be led by the plaintiff in affirmative evidence. If he has failed to lead the said evidence at appropriate stage, he cannot file application at the stage when the evidence of the defendants is going on, without making any prayer that additional evidence is sought to be led in affirmative. Since, it is not an application for adducing additional evidence stating the reasons why this evidence was not led earlier, there is no illegality or infirmity in the impugned order order dated 20.2.2016 (Annexure P-1), passed by learned Civil Judge, (Junior Division), Ajnala.

Learned counsel for the plaintiff states that now he want to file an application for adducing additional evidence stating the grounds on which it is sought to be led. He is at liberty to do so before the trial Court on the next date of hearing till then trial Court will not pass the final order/judgment.

Consequently, revision petition is dismissed with the above observation.

(KULDIP SINGH)
JUDGE

30.01.2018
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No