

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

**C.R. No.3136 of 2017 (O&M)
Date of Decision.17.12.2018**

Jai Singh

....Petitioner

Vs

Reshmo Devi (now deceased) through LRs and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikram Singh, Advocate and
Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Rajiv Dev Sharma, Advocate
for respondent No.5.

Mr. R.S. Chauhan, Advocate
for the respondents.

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AMIT RAWAL J. (ORAL)

Present revision petition is directed against the impugned order dated 21.03.2017 (Annexure P-4) whereby during the appellate stage, application filed additional evidence under Order 41 Rule 27 CPC with regard to Will dated 24.08.1970 propounded by the defendants, has been dismissed while the application for framing the issue was allowed.

Mr. Vikram Singh and Mr. Abhinav Sood, learned counsel appearing for the petitioner submitted that once the Appellate Court had accepted the request for framing additional issue on the Will, an opportunity should have been granted to examine the witnesses.

Mr. R.S. Chauhan, learned counsel appearing on behalf

of the respondents submitted that there was no need of framing additional issues, as parties to the *lis* had already led evidence. In case the parties have led evidence even in the absence of an issue, Court can adjudicate the controversy pertaining to admissibility/genuineness of the document.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of learned counsel appearing for the petitioner. Once evidence had already been led in order to cover up the technical objection, the lower Appellate Court framed the issue. It is not disputed that parties to *lis* had already led evidence. The additional evidence under the garb of relief of additional evidence was basically an attempt to fill up the lacuna, which could not be permitted.

In this view of the matter, I do not find any infirmity and illegality in the order impugned. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 17, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No