

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CR-3647-2017 (O&M)

Date of Decision:12.02.2018

Jagdish Narain (since deceased)
through his LRs

.....Petitioners

Versus

Chander Bhan (since deceased) through
his LR and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. D.D. Gupta, Advocate,
for the petitioners.

Mr. Ashwani Gaur, Advocate,
for respondent No.1.

HARI PAL VERMA, J.(Oral)

Petitioners have filed the present revision petition under Article 227 of the Constitution of India, impugning the order dated 26.10.2016 (Annexure P-9) passed by learned Civil Judge, Senior Division, Sonapat, whereby the learned Civil Judge has disposed of two applications filed by the parties, i.e. (i) an application (Annexure P-5) filed by the petitioner under Order 22 Rule 4-A read with Section 151 CPC to the effect that after the death of Chander Bhan (defendant), who had expired on 08.04.2013 and his wife Kamla Devi had predeceased him, the petitioners are the only surviving legal representatives of Chander Bhan being from the blood-line of late Sh. Dhani Ram @ Dhana Mal, father of Chander Bhan and (ii) an application (Annexure P-6) has been filed by Sunita Gupta claiming herself

executed a Will dated 14.01.2011 vide regd. No.240 dated 14.01.2011 in the office of Sub-Registrar, Delhi, New Delhi. As per said Will, Chander Bhan had bequeathed his property in favour of Sunita Gupta wife of Devender Kumar.

The applications stated above were disposed of by the learned Civil Judge vide impugned order dated 26.10.2016, whereby the application filed by Sunita Gupta was allowed on the plea that a registered Will was executed by Chander Bhan in favour of applicant-Sunita Gupta, who is wife of the adopted son Devender Kumar and as a consequence thereof, the application filed by the present petitioners-plaintiff under Order 22 Rule 4-A read with Section 151 CPC was disposed of.

Learned counsel for the petitioners has argued that the impugned order dated 26.10.2016 passed by the learned Civil Judge is a cryptic and non-speaking order as the very application filed by the petitioners under Order 22 Rule 4-A read with Section 151 CPC has not been decided in clear terms and there is apparent ambiguity.

On the other hand, learned counsel for respondent No.1 has argued that during his lifetime, Chander Bhan had executed a registered Will dated 14.01.2011 in the office of Sub-Registrar, Delhi, New Delhi, whereby Chander Bhan had bequeathed his property in favour of Sunita Gupta. Therefore, by virtue of Will, she has become the legal heir of deceased Chander Bhan. Even otherwise, the said Will dated 14.01.2011 so executed by Chander Bhan has been challenged by way of a separate suit i.e. civil suit No.2316 of 2017 titled as Govind Ram Versus Chander Bhan and others.

I have heard the learned counsel for the parties.

Since the petitioners who have filed the present suit have already filed a separate suit challenging the Will, wherein Sunita Gupta is one of the contesting defendants, this Court finds that the petitioners have already availed a remedy and they are at liberty to prove the legality or illegality of the Will in question by leading appropriate evidence.

In view of the changed circumstances, this Court does not find any reasons to interfere with the impugned order dated 26.10.2016 (Annexure P-9) passed by the learned Civil Judge.

The present revision petition is disposed of accordingly.

February 12, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No