

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5600 OF 2018(O&M)

Date of decision: 28.08.2018

Iqbal Singh and ors.

... Petitioners

vs.

General Public and others

.. Respondents

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Rajeev Dev Sharma, Advocate
for the petitioners..

Harinder Singh Sidhu, J.

The present revision petition has been filed impugning the order dated 12.07.2018 of learned Additional District Judge, Pathankot whereby the ex-parte evidence of the petitioner has been closed by Court order.

The petitioners have filed a petition under Section 276 of the Indian Succession Act, 1925 for grant of Probate in terms of the registered will dated 07.10.1988 executed by late Shri Hoshnak Singh, their father.

Respondents No. 2 to 6, who are the sisters of the petitioners, in the petition, were proceeded against ex-parte vide order dated 07.03.2017.

Learned counsel for the petitioners states that the statement of two witnesses of the petitioners was recorded on 04.04.2018 and the case was adjourned to 16.04.2018. On 16.04.2018 the case was adjourned to 28.05.2018 for ex-parte evidence of the petitioners. On 28.05.2018 the case was again adjourned to 12.07.2018 for ex-parte evidence of the petitioners. On 12.07.2018 petitioner No.1 was to appear as a witness. However, he had to urgently go out of station to see an ailing relative because of which he could not appear before the Court. The Court passed the order closing the evidence of the petitioners.

Learned counsel argued that a serious prejudice would be caused to the petitioners in case the petitioner is not permitted to be examined. The respondents having been proceeded against an ex-parte, no prejudice would be caused to them. He states that the case is now fixed for 03.10.2018 and only one opportunity may be given to petitioner no.1 to appear as a witness before the trial court on the date fixed.

Considering the facts and circumstances of the case, this petition is allowed. The order dated 12.07.2018 to the extent of closing the ex-parte evidence of the petitioners is quashed. The petitioners shall have one opportunity to examine petitioner No.1 as a witness before the trial Court on 03.10.2018. This shall be subject to payment of Rs.10,000/- as costs. The costs be deposited with the Legal Services Authority of the District concerned.

28.08.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No