

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 7-2015 (O&M)

Date of decision: 07.03.2018

Karnail Singh and another

.....Petitioners

versus

Mal Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.S.Salar, Advocate for the petitioners
Mr.Ramandeep Singh, Advocate for respondent nos.1 to 4

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 12.11.2014, passed by Civil Judge (Junior Division), Samana, vide which, application filed by the plaintiff for permission to lead additional evidence was partly allowed. Though the sale deed dated 11.6.1987 was allowed to be proved from which thumb impressions of Nihal Kaur were taken by the handwriting and finger print expert but the permission to allow examination of the plaintiff in rebuttal was declined. Also impugned is the order dated 22.12.2014, vide which, another application to examine plaintiff during rebuttal evidence was dismissed.

Heard.

The only prayer of learned counsel for the petitioner is that in this case some additional issues were framed on 3.5.2014. One of the issues was regarding Will, burden of proving those issues was on the defendants.

Therefore, plaintiff should be allowed to be examined to deny the Will.

On the other hand, learned counsel for respondents has stated that the plaintiff did not examine himself in affirmative. Now, the plaintiff wants to fill up the lacuna. Perusal of the impugned order shows that after obtaining large number of adjournments, counsel for the plaintiff closed his evidence voluntarily. Thereafter, the defendants led the evidence and it was at the stage of the rebuttal that present application was filed.

Considering that some additional issues were framed on 3.5.2014 after the plaintiff had closed his evidence and that the burden to prove the Will was on the defendants, regarding which, additional issue was framed, the impugned orders are set aside and in the interest of justice, plaintiff is allowed to examine himself to make a statement only regarding rebuttal to the issues, the burden of proving which was on the defendants. For this purpose, he is granted only one opportunity for examining himself on the date fixed by the trial Court. No further opportunity shall be granted to him.

Present revision petition is accordingly allowed.

07.03.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No