

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 110

CR-6725-2018

Date of decision :14.11.2018

Sucha Singh

..... Petitioner

VERSUS

Durgi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Dinesh Nagar, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 10.08.2018, passed by the Civil Judge (Junior Division), Shaheed Bhagat Singh Nagar (for short, the Trial Court), through which an application filed by the petitioner for leading additional evidence has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that way back in the year 2014, basing their claim on a Will dated 03.02.1995 by one Ajit Singh, the petitioner alongwith one Pal Singh filed a suit seeking therein a declaration that they be declared owners of the property detailed and described in the headnote of the plaint (for short, the suit property). Permanent injunction for restraining respondent No. 1 from interfering in the possession of the petitioners as also from alienating the suit property was also sought. In the alternative, joint possession of the suit property was claimed.

Since after availing as many as thirty six opportunities, the petitioners/plaintiffs did not conclude their entire evidence their evidence was ordered to be closed by the Trial Court. Thereafter, the respondents/defendants led their entire evidence. When the matter was listed for rebuttal evidence, if any, and for final arguments, the petitioner and another filed an application seeking therein to produce additional evidence in the form of getting examined the thumb impressions of the

aforesaid Ajit Singh-testator of the Will from a handwriting expert. The Trial Court dismissed such application, occasioning the filing of the present petition.

Learned counsel for the petitioner has been heard.

It is not disputed that the petitioner and another were granted as many as thirty six opportunities to lead their evidence and during that time no efforts were made by them to get examined the thumb impressions of Ajit Singh, on the Will which was the sole basis of his claim, from a handwriting expert and that an application for leading additional evidence was filed only after the respondents/defendants had led their entire evidence and when the suit was listed for final arguments. Further, a perusal of the record reveals that the Will of Ajit Singh was hotly contested by respondent No. 1-Durgi from the initial stage of the proceedings as in her written statement itself the Will was stated to be a forged document. That being so, the petitioner/plaintiff could and should have got the thumb impressions of Ajit Singh on his Will examined through a handwriting expert at the time when they were leading their evidence for which, as stated above, they were granted as many as thirty six opportunities.

In view of the above facts as also for the reason that under the garb of leading additional evidence the petitioner should not be permitted to fill up the lacuna in his case especially in a suit which is pending for the last four years and is at its final stage, no error can be found in the impugned order.

Dismissed.

14.11.2018
shamsher

[DEEPAK SIBAL]
JUDGE