

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-605-CII-2018 in/and
CR No. 7689 of 2017 (O/M)
Date of decision : 17.1.2018

Harbhajan Singh and others Petitioners
Versus
Darmanjot Kaur and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. G.S. Virk, Advocate, for applicants-petitioners.
1. Whether the Reporters of local newspaper may be allowed to
see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

CM-605-CII-2018

Documents (Annexure-P-6 Colly.) are taken on record.

Application is disposed of.

Main case

Impugned in present revision is the order dated 1.9.2017 (Annexure-P-5), passed by the learned Civil Judge (Junior Division), Ludhiana, vide which an application filed by plaintiffs-respondents under Order 6 Rule 17 of Civil Procedure Code, 1908, for amendment of plaint, was allowed.

Heard. It comes out that plaintiffs-respondents had filed a suit for declaration that plaintiffs-respondents alongwith defendants are in joint possession of disputed property it being ancestral and Joint Hindu Family property. They also challenged the transfer deed dated 30.5.2012. It comes out that when defendants No. 1, 2, 4 and 5 appeared and filed written statement, in which they set up a Will dated 9.2.1968, executed by Pala Singh in favour of defendant No. 1 and ` claimed that it is a self acquired property in the hands of defendant No. 1. Plaintiffs have filed the

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application to amend the suit, so as to challenge the said Will.

The learned counsel for petitioners contends that challenge to said Will is time barred. However, I am of the view that it is a question of fact whether challenge to the Will is time barred and cannot be outrightly decided at the stage of amendment of plaint. Prima-facie, the factum of Will came to the notice of plaintiffs when defendants filed written statement. Therefore, the amendment was not unnecessarily delayed. The amendment is necessary for the just decision of the case as inheritance is in question. There is no illegality or infirmity in the impugned order. Therefore, instant revision is dismissed.

(KULDIP SINGH)
JUDGE

17.1.2018
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No