

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.8451 of 2017
Date of decision : 30.01.2018

Kamlesh Gupta

...Petitioner

Versus

Dr. Sham Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mrs. Munisha Gandhi, Sr. Advocate with
Ms. Salina Chalana, Advocate for the petitioner.

Mr. Vikas Mohan Gupta, Advocate for respondent Nos.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

The defendant is in the revision petition against the order dated
24.07.2017 framing the additional issues, which reads as under:-

*“1-A Whether Dr. Jai Gopal had executed Will dated
3.2.2000 bequeathing all his properties, movable and
immovable, for charity naming the plaintiffs as trustees for
the management of the land described in the heading of the
plaint for the benefit of the public at large for charity? OPP
4-A Whether the Will dated 3.2.2000 stated to be executed
by Dr. Jai Gopal is the result of fraud and is a forged and
fabricated document? OPD”*

Learned counsel for the petitioner has vehemently argued that
Issue No.4-A could not be framed by the Court as the propounder of the
Will has to prove the due execution of the Will and dispel all the suspicious

circumstances. Hence, she submits that Issue No.4-A is wholly unnecessary.

Learned counsel for the respondents has supported the order passed by the Court and has stated that since it is the defendant who has taken the plea that the Will is forged and fabricated and result of fraud, hence, it is for them to prove such fact.

The issues are to be framed in accordance with Order 14 Rule 1 CPC. Whenever there is a dispute with regard to the validity of the Will, it is the propounder who has to prove the due execution of the Will and dispel all the suspicious circumstances surrounding the Will. This being the position, in the considered opinion of this Court, issue No.4-A extracted above is wholly unnecessary.

In view of the above, revision petition is allowed.

Issue No.4-A is deleted. The trial Court is directed to proceed with the case.

30.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No