

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.3102 of 2015 (O&M)
Date of Decision.23.01.2019

Shakuntla (D) through LRs

...Petitioner

Vs

Haryana State of Electricity Board and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Munish Kumar Garg, Advocate
for the petitioner.

Ms. Urvashi Singh, Advocate for
Mr. S.K. Mahajan, Advocate
for respondents No.1 to 5.

Mr. Arun Jindal, Advocate
for respondent No.6.

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AMIT RAWAL J. (ORAL)

The petitioners along with proforma respondent No.7 are the legal representatives of Shakuntla. The case pertains to claim regarding retiral benefits of Jiwan Dass, who died on 13.10.2002. On his demise, Shakuntla his wife filed civil suit against defendants No.1 to 5-department claiming service benefits, which was decreed. Respondent No.6, son of Jiwan Dass filed execution application claiming to be legal representative of Shakuntla on the registered Will. Objections against the same were filed by the petitioners and accordingly, issues were framed in terms of the provisions of Rule 5 Order 22 CPC. As per the finding, Will has been found to be genuine being registered one. Shakuntla had bequeathed her 1/5th share in the retiral benefits in favour of respondent No.6-Sat Narain.

Learned counsel appearing on behalf of the petitioners

submitted that Will has not been proved in accordance with law. There is no compliance of Section 63(c) of the Indian Succession Act and Section 68 of the Indian Evidence Act, as the Will was on 25.08.2006 i.e. prior to death of Shakuntla, who died in 2008.

I am afraid aforementioned argument of Mr. Garg would not be sustainable as Sat Narain, respondent No.6 in order to prove the Will has examined Rajinder Kumar, document writer as AW1 and Pardeep Kumar, attesting witness as AW2. On the other hand, defendants have not been able to rebut the signatures or thumb impressions of Shakuntla on the registered document. In the absence of the same, Court had no other option but to reject the same. Objections raised to the execution application by laying challenging the Will is nothing but an attempt to usurp share of Shakuntla.

In view of such circumstances, I do not find any infirmity or illegality in the order under challenge, much less, the same cannot be said to be passed without jurisdiction.

Resultantly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

January 23, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No