

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 304 of 2019 (O&M)
Date of decision: 17.1.2019

Balkar Singh

.. Petitioner

v.

Piara Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Munish Gupta, Advocate for the petitioner.

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AVNEESH JHINGAN, J. (ORAL)

Aggrieved of the order dated 13.9.2018 passed by the Civil Judge (Junior Division), Hoshiarpur (hereinafter described as 'the court below') allowing the objection raised on behalf of respondent No. 1 (plaintiff in the suit) whereby the question put forth on behalf of the petitioner (defendant No. 3 in the suit) in the cross-examination was denied, the present civil revision petition has been filed.

The facts in brief are that respondent No. 1 filed a suit for declaration to the effect that he is a joint owner in possession of the property described in the plaint on the basis of a registered Will dated 17.2.2000. The Will was executed by Kartar Singh. Upon notice, written statement was filed by the petitioner taking a stand that the Will dated 17.2.2000 was cancelled on 15.3.2001 and later on another registered Will dated 25.5.2004

was executed in favour of defendants No. 2 and 3. The issues were framed. PW2- Karnail Singh appeared to support the case of respondent No. 1, being an attesting witness to the Will dated 17.2.2000. In his cross-examination, a question was put to him to the following effect:

“Whether or not, on dated 13.3.2001, Pritam Kaur executed any Will in favour of Balkar Singh and Avtar Singh in your presence and in the presence of Dev Raj ?”

An objection was raised on behalf of respondent No. 1 with regard to the said question. The learned court below upheld the objection stating that the Will dated 13.3.2001 is neither in dispute in the suit nor it is mentioned in the pleadings of the parties. Aggrieved of the said order, the present civil revision petition has been filed.

Learned counsel for the petitioner states that in order to defend the suit, the petitioner has not only to prove cancellation of the Will dated 17.2.2000 but also has to prove that there were strained relations between respondent No. 1 and deceased-Kartar Singh.

The contention raised by learned counsel for the petitioner lacks merit. The dispute in the suit filed is with regard to the declaration to the effect that respondent No. 1 is the joint owner in possession on the basis of Will dated 17.2.2000, for which the defence taken by the petitioner is that the said Will was cancelled. In such circumstances, the objection raised against the question (mentioned above) in the cross-examination has rightly been upheld by the court below. The said question was not relevant for the decision of the suit and was beyond the pleadings. The Will dated 13.3.2001 is beyond the purview of the suit.

The civil revision petition is dismissed. It is, however, clarified that nothing stated in this order shall be construed as an expression of opinion on the merits of the suit.

(Avneesh Jhingan)
Judge

17.1.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No