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

**Civil Revision No.5134 of 2018
Date of Decision:18.03.2019**

**BARINDER SINGH@ VARINDER SINGHPetitioner
Vs
DANI BAI AND OTHERSRespondents**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Sherry K. Singla, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner/defendant No.1 has challenged the order dated 18.07.2018 passed by the Civil Judge (Jr. Divn.), Talwandi Sabo, whereby the application filed by the petitioner for tendering original Will and examination of witnesses by way of additional evidence was dismissed.

[2]. Perusal of the record would show that at the time of leading evidence, the petitioner/defendant No.1 was minor. Certified copy of the Will was duly exhibited and thereafter petitioner sought to produce original Will by way of additional evidence. For producing the original Will, the petitioner could have resorted to Section 65 of the Evidence Act also, but still the petitioner can lead additional evidence as the certified copy of the Will has already been exhibited as Ex.D-1 on record.

[3]. The provision being handmaid of justice, the strict construction will not apply as the certified copy of Will has already been exhibited on record. By way of leading additional evidence, an effort has already been made to bring on record the original Will, which would facilitate the Court to decide the controversy in an effective manner.

[4]. Notice of motion was issued to respondents No.1 and 2 on 10.08.2018. Respondents No.1 and 2 have been duly served. As per order dated 31.10.2018, none appeared on behalf of respondents No.1 and 2 despite service. For all abundant caution, the case was adjourned to 15.11.2018 with the observation that in the meanwhile served respondents may also cause their appearances. There is nothing on record to show representation on behalf of respondents No.1 and 2.

[5]. Faced with the situation, I proceeded to hear the case on merit and considered the submissions made by learned counsel for the petitioner, which were found to be meritorious.

[6]. In view of above, dated 18.07.2018 passed by the Civil Judge (Jr. Divn.), Talwandi Sabo is set aside. This revision petition is allowed. Normal consequences to follow.

March 18, 2019

(RAJ MOHAN SINGH)
JUDGE

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No