

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

Sr. No.228

C.R. No.6578 of 2015 (O&M)

Date of decision: 26.03.2019

Aman Lega and another

....Petitioners

versus

Deepinder Singh Poonia and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. H.S. Bhullar, Advocate
for the petitioners.

Mr. Animesh Sharma, Advocate
for the respondents.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the orders dated 14.09.2015 and 19.09.2015 passed by the Civil Judge (Junior Division), Chandigarh (for short – the Trial Court) dismissing the applications filed by the petitioners for summoning of S/Sh. Khushwant Singh and Rakesh Bhatia as also the record from this Court with regard to a petition filed by the aforesaid Khushwant Singh.

At the time of hearing of the matter, Mr. Bhullar, learned counsel appearing on behalf of the petitioners submitted that he restricts his prayer only to the summoning of Khushwant Singh.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioners filed a suit through which they sought partition, as per their share, of H.No.117, Sector 11-A, Chandigarh including the household articles lying therein (for short –

the suit property). On being put to notice, the respondents, who were the defendants in the suit, appeared before the Trial Court and on the basis of a Will dated 30.10.2009 allegedly executed by late Lt. Col. Karnail Singh Punia staked their claim on the suit property. Thereafter, the Trial Court framed issues on which both parties led their respective evidence. When the suit was at the stage of rebuttal evidence, the petitioners filed an application stating therein that in August 2015, Khushwant Singh, who was the one of the marginal witnesses of the Will of late Lt. Col. Karnail Singh Punia had filed a quashing petition before this Court seeking therein quashing of a FIR in which allegations had been made against him with regard to fabrication of the aforesaid Will. The petitioners submitted that in his quashing petition, Khushwant Singh had stated that the Will had not been signed by late Lt. Col. Karnail Singh Punia in his presence. On this basis, the petitioners had sought to summon Khushwant Singh as also Rakesh Bhatia, Advocate, who was representing Khushwant Singh before this Court in the aforesaid quashing petition. The Trial Court rejected the applications filed by the petitioners occasioning the filing of the present petition.

After hearing learned counsel for the parties, this Court is of the opinion that in the present litigation it is crucial to adjudicate upon the legality and genuineness of Lt. Col. Karnail Singh Punia's Will and to do so deposition of Khushwant Singh, who is one of the attesting witnesses to the aforesaid Will is important, particularly when it is the petitioners' case that Khushwant Singh had filed a petition before this Court in which he had acknowledged that the Will in question had not been signed by late Lt. Col. Karnail Singh Punia in his presence. On the same basis, the record of the quashing petition filed before this Court by Khushwant Singh is also

considered to be equally important for the just and proper decision of the lis between the parties.

No delay is also found in the filing of the applications by the petitioners. The quashing petition was filed before this Court by Khushwant Singh in August 2015 and soon thereafter, in August/September 2015, the petitioners filed their applications to summon Khushwant Singh and the record of the quashing petition filed by him. Thus, the evidence being sought to be led by the petitioners could possibly have not been led by them earlier.

In view of the above, after setting aside the impugned orders, it is directed that the petitioners be allowed to lead evidence in the form of summoning of Khushwant Singh as a witness as also by producing the records of Khushwant Singh's quashing petition filed by him before this Court. Needless to say that the respondents would be granted adequate opportunity to rebut any such evidence.

The present petition is allowed in the above terms.

Since the suit has been pending since the year 2010, the Trial Court is requested to finally dispose of the same within four months from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

March 26, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No