

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

**Civil Revision No.6950 of 2015
Date of Decision:09.04.2019**

Sant Lal (deceased) through L.R.petitioner

Versus

Savita Rajora and othersrespondents

Civil Revision No.6951 of 2015

Sant Lal (deceased) through L.R.petitioner

Versus

Savita Rajora and othersrespondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Rajesh Narang, Advocate
for the petitioner

Mr.Arun Kumar Singla, Advocate
for respondents No.1 to 10

Ms.Charu Sharma, Advocate
for respondent No.12

RAJIV NARAIN RAINA, J. (ORAL):

1. This order will dispose of two revision petitions i.e. Civil Revision No.6950 and 6951 of 2015, arising out of the common impugned order. For the sake of convenience, the facts are taken from Civil Revision No.6950 of 2015.

2. The only argument raised in these petitions in challenge to the orders dated 09.02.2015 (Annex. P/10) and 24.09.2015 (Annex. P13) passed by the learned Additional District Judge, Panipat, is that they are in excess of final judgment and order dated 11.09.2014 (Annex. P7) passed by this Court in CR No.5801 of 2014, titled “Dharma Paul Rajora and another vs. Sudesh Kumar Rajora and others”, because according to counsel it was incumbent upon the execution Court to decide upon the validity of the unregistered testamentary Will dated 18.07.2011 of Sant Lal propounded by Sudesh Kumar Rajora- one of the legal representatives of the deceased testator and not be driven to the conclusion of the suit, in a claim over compensation awarded under the Land Acquisition Act, as the petitioner is a sole beneficiary of the Will to the exclusion of the other heirs and legal representatives.

3. I am afraid, this argument is misplaced and worthy of rejection. In CR No.5801 of 2014, this Court was called upon to examine an order passed under Order 22 Rule 3 of the Code of Civil Procedure filed by Sudesh Kumar Rajora and I had reached the conclusion that the trial Court erred in allowing the application without effecting service of summons on all the legal representatives. This Court expressed no opinion with respect to the rights of the legal representatives and when it was observed in the order that their rights are left to the execution Court to decide on merits, it was only in the context of providing an opportunity of fair hearing on the application after notice to them to have their say in the matter. The order was set aside and the application was ordered to be decided afresh. I am told the order has attained finality.

4. On remand, the Additional District Judge, Panipat, has rightly observed that the validity of the Will can be gone into only in appropriate proceedings either for grant of probate or for party to seek a declaration from the Civil Court regarding the genuineness and validity of the Will. Even the learned Additional District Judge, Panipat, has properly understood the issue and made it clear that nothing observed in his order shall be taken as an expression of opinion on the merits of the validity of the alleged Will which can only be proved by evidence. It follows that the subsequent order dated 24.09.2015 passed by the learned Additional District Judge, Panipat, is a consequential order directing the petitioner Sudesh Kumar Rajora to return the amount of compensation received exclusively by him on the basis of the trial court order dated 26.05.2014 which order was impugned in the petition allowing the interlocutory application, which were set aside. Return of money was, therefore, the proper course adopted by the Judge pending re-distribution/distribution of the amount compensation in accordance with law among the legal representatives depending on the result of the final orders as may be passed by a court of competent jurisdiction on the validity of the Will. No interference therein is called for.

5. The prayer of the petitioner that he may be allowed to retain the amount pending litigation on furnishing an indemnity bond is declined by reason of being inequitable and oppressive of the rights of the siblings which have to be adjudicated.

6. As a result of the above discussion, I find no merit in these petitions and the same are dismissed. The orders of the Courts below are

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and
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maintained and obviously the fall out of which is that the ad interim order
16.10.2015 passed by this Court stands vacated.

09.04.2019
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable-	Yes/No