

In the High Court of Punjab and Haryana at Chandigarh

CR-7999-2017 (O&M)

Date of Decision: March 01, 2019

Yajnavir Singh Rana @ Jagbir and others

... Petitioners

Versus

Suraj Bhan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashwani Bakshi, Advocate,
for the petitioners.

None for respondents no. 1, 2 and 4.

Mr. Kulvir Narwal, Advocate,
for respondent nos. 3 and 5.

Amit Rawal, J. (Oral)

Petitioners are defendant nos. 13 to 17 in a suit filed by the respondent no.1/plaintiff for partition claiming joint possession of the suit property. Two sets of defendants i.e. defendants no. 13 to 17 and defendants no. 1 to 4 filed the joint written statements. The plea with regard to Will has not been pleaded in any of the written statements. Defendant no.1 to 4 submitted an application before the trial Court for examination of the expert for comparing the signatures of the attesting witness.

Mr. Ashwani Bakshi, learned counsel appearing on behalf of the petitioners submitted that one of the witness of the defendants was cross-examined regarding the Will and he denied the same, therefore, defendant No.1 moved an application. The matter is neither substantially or directly in issue in the absence of the pleadings.

Mr. Kulvir Narwal, learned counsel, appearing on behalf of respondents no. 3 and 5 supported the impugned order by urging that Will in which signatures of the attesting witness have already been exhibited and since one of the witness had denied the same, the question arose with regard to confronting of his signatures to the Court which has been allowed by the trial Court, no harm and prejudice would be caused.

I have heard learned counsel for the parties and perused the paper book.

Written statement annexed with revision petition of Defendants no. 1 to 4, much less, the plaint, do not remotely claim any right from the Will dated 20.8.1987. The trial court, in my view, unnecessarily allowed the application which will delay the adjudication of the suit instead should have focused on the subject matter of the suit, *ibid*, where in partition and joint possession has been sought. The impugned order suffers from illegality.

In view of above, impugned order is set aside. Instant revision petition is allowed.

March 01, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No