

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CR-3783-2004 (O&M)
Date of Decision:05.03.2019

Karnail Singh alias Kaila and others

....Petitioners

Versus

Rajvir Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashish Gupta, Advocate for the petitioners.

Mr. Saurav Bhatia, Advocate for
Mr. S.S. Rangi, Advocate for the respondents.

AMIT RAWAL, J. (Oral):-

The present Revision Petition is directed against the impugned order dated 18.05.2004, passed by learned Civil Judge (Senior Division), Patiala, whereby, an application of the petitioners for revocation of the succession certificate dated 27.11.1991 issued in the name of the respondent-Rajvir Singh in proceedings initiated under Section 383 of the Indian Succession Act (for short 'the act') has been dismissed.

Learned counsel appearing on behalf of the petitioners submitted that in the aforementioned application, the predecessor-in-interest namely Jaswant Kaur was not arrayed as party as she was sister of late Shri Gurdial Singh Son of Randhir Singh. Provisions of Section 383 of the Act enables the Court granting the succession certificate to revoke on the

following grounds:-

“383. Revocation of certificate.—A certificate granted under this Part may be revoked for any of the following causes, namely:—

- (a) that the proceedings to obtain the certificate were defective in substance;*
- (b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;*
- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;*
- (d) that the certificate has become useless and inoperative through circumstances;*
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.”*

The genesis of the succession certificate had not only been the affidavit submitted by Gurdial Singh (deceased) but also will dated 18.04.1990. Therefore, impugned order is not sustainable in the eyes of law.

Learned counsel appearing on behalf of the respondents submitted that in pursuance to the aforementioned application, the trial Court, before granting the succession certificate framed issues. By relying upon the judgment-Ex.RA in a civil suit filed by Jaswant Kaur, one of the brother asserted the right being collateral of Gurdial Singh wherein Jaswant Kaur was arrayed as defendant. The right of the Court granting the letter of succession is very limited.

I have heard learned counsel for the parties and carefully gone through the paper book and in view of that, there is no force and merit. On

perusal of the provisions of Section 383 of the Act extracted here-in-above, limited right is given to the Court. It is not a case of the petitioners that the certificate was obtained fraudulently. Ex. RA is the judgment vide which Jaswant Kaur was held not to be the sister of Gurdial Singh. In cases of letter of administration, succession as only validity of will is required to be given and not of title. Though in the aforementioned judgment (Exhibit RA), Will dated 18.04.1990 propounded by the respondents was disbelieved. But in present case, succession certificate was also on the basis of affidavit.

In such circumstances, I am of the view that application was bereft of any reason and there is no ground for interfering in the impugned order as there is no infirmity and illegality.

In view of the above, the present Revision Petition is dismissed.

05.03.2019
anju rani

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No