

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

CR-411-2016 (O&M)
Date of decision : 12.03.2020

Gurlal and others

...Petitioners

Versus

Fateh Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Sonia G. Singh, Advocate for the petitioners.

Mr. Ashish Aggarwal, Sr. Advocate with
Ms. Malika Aggarwal, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The correctness of the order passed by the learned trial Court permitting the plaintiff to lead secondary evidence with respect to a Will has been challenged.

Learned counsel for the defendants-petitioners, while drawing attention of the Court to the assertions made in para 7 of the plaint, has submitted that the Will, if any existed has again been lost by the plaintiff and, therefore, he cannot be permitted to take the benefit of his own neglect and fault. She further submitted that the learned Court has erred in permitting the plaintiff to prove the Will by way of secondary evidence without the proof of existence, condition and lost thereof.

On the other hand, learned counsel for the respondent submits

that he has no objection if the learned trial Court is permitted to examine the contention raised by the learned counsel for the petitioners at the time of final disposal of the suit.

Keeping in view the aforesaid facts, the present revision petition is disposed of.

Learned trial Court while finally deciding the suit would keep in mind the mandate of Clause (c) of Section 65 of the Indian Evidence Act and also the fact that whether the plaintiff has successfully proved the existence of the Will and lost thereof.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

12.03.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No