

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

CR No.5242 of 2016 (O&M)
Date of decision: 29th January, 2020

Pitamber Singh & another

... Petitioners

Versus

Balwinder Kaur & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepak Sharma, Advocate for the petitioners.
Mr. Amandeep Singh, Advocate for respondent No.1.
Mr. Gurmohan S. Bedi, Advocate for respondent No.2.
Service of respondents No. 3 to 6 – dispensed with.

FATEH DEEP SINGH, J.

In a civil suit between Pitamber Singh, Harbans Singh (plaintiffs) and Rupesh Singh (defendant) all real brothers, whereby the plaintiffs had sought by way of suit for separate possession, partition of the property detailed in the head note of the plaint as well as decree for permanent injunction restraining defendant No.1 Rupesh Singh from getting the property transferred in his name and thereafter selling, mortgaging/leasing or alienating in any manner whatsoever. During the course of trial of the suit, an application was moved by defendant No.4 (who along with Balwinder Kaur, Harjit Kaur, Dhanwant Kaur and Mohinder Kaur was brought about by way of subsequent events being sisters of the initial contesting parties to this *lis*) praying for production of

two Wills dated 13.10.1989 and 08.10.1993 as well as getting the signatures of deceased Bakhshish Singh examined on these two Wills and give an expert opinion. The same was opposed by the contesting defendant Rupesh Singh on the ground that it was a concerted and collusive act between the applicant Balwinder Kaur and defendant Rupesh Singh and the application being not maintainable sought its dismissal. It is through the impugned orders dated 21.07.2016 the Court of learned Addl. Civil Judge (Senior Division), SAS Nagar Mohali allowed the application and which is subject matter of challenge in the present revision petition.

Upon hearing Mr. Deepak Sharma, Advocate for the petitioners; Mr. Amandeep Singh, Advocate for respondent No.1; Mr. Gurmohan Singh Bedi, Advocate for respondent No.2 and perusing the records of the case.

The controversy is between the siblings over the Wills purported to have been got executed by deceased father Bakhshish Singh. The parties have set up in support of their respective cases, three Wills dated 13.10.1989, 08.10.1993 and 08.06.1994 (the third one subsequently pleaded before this Court). Thus, a material question has arisen as to the last valid Will of deceased testator Bakhshish Singh, which can only be adjudicated after examination of the signatures on the Wills and report of the expert in that regard. The Court below, going through the stand of the two sides, keeping in view the claim of the plaintiff side and that by way

of counter-claim by the contesting defendant, has reached the conclusion that in such a situation where there is claim and counter-claim over three Wills, the dispute can only be set at rest judiciously if the signatures of the deceased are got compared on these Wills with his standard admitted signatures.

Mr.Deepak Sharma, Advocate for the petitioners has failed to enliven his submissions how a material prejudice has come about to the petitioners necessitating intervention by this Court with the aid of Article 227 of the Constitution of India. This Court does not feel inclined to show indulgence as there is no legal necessity to interfere in the impugned findings. As such the revision petition being hopelessly without merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 29, 2020

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No