

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 8256 of 2018 (O&M)
Date of decision : January 14, 2020

Amritpal Kaur

....Petitioner

versus

Gurbachan Kaur and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ankur Nanda, Advocate for
Mr. Prateek Gupta, Advocate, for the petitioner

Mr. Vijay Sharma, Advocate, for the respondents

Fateh Deep Singh, J. (Oral)

What one can perceive and is what permeates from the present petition is that the revision petitioner Amritpal Kaur is trying a wane attempt to have another forego in the inter-se dispute between them over the property by helping her brother seek what he could not secure otherwise through the previous legal recourse. Thus, the sole point that comes up is whether this sibling could be allowed to rake up a plea where she is not a beneficiary and thus,

help her brother in getting a relief to which he was otherwise was not found entitled to earlier.

The genesis in short are that in a suit subsequently enshrined as Gurbachan Kaur versus Paramjit Singh and others in which the present petitioner Amritpal Kaur happens to be defendant no. 5 and co-defendants her siblings and their offsprings where relief of possession of a house/commercial property and recovery of money was subject matter of dispute. A petition before this Court bearing CR No. 8715 of 2016 was filed by the present petitioner Amritpal Kaur in which grievance was that the trial court has refused to set aside ex-parte order dated 5.9.2014 against the petitioner and this Court vide orders dated 7.8.2019 Annexure P/1 while setting aside the ex-parte order and all subsequent proceedings conducted by the trial court laid the following conditions:-

“(a) the petitioner shall file written statement by 31.8.2018;

(b) the respondent/plaintiff shall file replication to the written statement filed by the petitioner, if any, by 30.9.2018;

(c) the petitioner shall complete her entire evidence by 24.12.2018 and the respondent shall lead his rebuttal evidence, if any, by 31.1.2019.”

During the course of hearing by the two sides, it is fairly conceded that condition (a) and (b) stands fulfilled. However, the court by the impugned order did not allow the prayer of the petitioner for framing of additional issue and rather passed the impugned orders Annexure P/2 on 16.11.2018 disallowing the relief and refused to frame fresh/additional issues on the basis of the written statement filed by the petitioner.

To the specific query of the Court, learned counsel for the petitioner could not dispel the submissions raised by the opposite side that the plaintiff Gurbachan Kaur has staked her right to the properties on the basis of the registered Will dated 21.7.1987 purported to have been executed by Dilawar Singh deceased. The brother of the petitioner namely Paramjit Singh defendant denied the execution of this Will and did not claim any will in his favour while subsequently in her written statement allowed by this Court, the petitioner had taken up the plea that a Will dated 25.12.2007 was executed by Dilawar Singh in favour of Paramjit Singh above said. Thus, it is quite reflective that Paramjit Singh never took up this plea of Will in his favour being beneficiary and when as conceded by the counsel for the revisionist, petitioner Amritpal Kaur is not beneficiary in this Will dated 25.12.2007 has sought to get framed additional

issue of this Will with the ulterior motive to fill in the lacunae in the case of her brother and thus help him out over his dispute with the plaintiff. It is pertinent to mention here that Paramjit Singh defendant remained unsuccessful throughout in the hierarchy of the judicial system till the Apex Court and the present attempt is to deceptively help him out through this contrivance. The court below observing the history of the dispute between the parties, their relative stands and the fact that this Court vide orders Annexure P/1 had afforded only opportunity till 24.12.2018 to complete her evidence which the petitioner failed to do so. Thus, in the light of this, counsel for the petitioner could not convince this Court how there has been miscarriage of justice necessitating intervention by this Court. The petition being devoid of merit stands dismissed.

January 14, 2020

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No