

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

105

**CR-1322 of 2017(O&M)  
Date of Order: 06.05.2022**

**Sardar Singh**

**..Petitioner**

**Versus**

**Harbans Singh (since deceased) through his LRs and Ors.**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. G.S.Dhaliwal, Advocate, for the petitioner.  
Mr. Ajay Ghangas, Advocate, for respondent no.1.

**ANIL KSHETARPAL, J(Oral)**

The petitioner is the plaintiff in a suit for decree for partition and possession. One of the disputes involved in the present case is with regard to the validity of the bequest made by late Sh. Wajir Singh. Harbans Singh-defendant claims that late Sh. Wajir Singh executed a Will in his favour, on 11.12.1989. The petitioner is also son of late Sh. Wajir Singh. The Will was produced before the trial court. Even an agreement dated 16.09.1980, was also produced. However, due to negligence of the counsel, the attesting witness of the will was not examined.

The learned First Appellate Court in exercise of its discretion has allowed the application under order 41 Rule 27 CPC.

The learned counsel representing the petitioner contends that the respondent was thoroughly negligent, therefore, the application should not have been allowed.

The rules of procedure are to regulate the working of the courts in order to advance the cause of justice. The procedural law is required to be interpreted in order to do substantive justice between the parties. The

First Appellate Court has given cogent reasons to allow the application. For the negligence of the respondent, the First Appellate Court has already punished him by imposing the costs of Rs.10,000/-.

In view thereof, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

May 06, 2022

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(ANIL KSHETARPAL)  
JUDGE

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |