

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

113

CR-2101 of 2016 (O&M)
Date of decision: 05.09.2022

Gurdev Kaur (since deceased) through LRs

..Petitioner

Versus

Baljinder Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Deep Inder Singh Walia, Advocate
for the petitioner.

Mr. Chanakya Batta, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

Questioning the correctness of the interlocutory order passed by the trial court, on 11.02.2016, while denying the plaintiff an opportunity to adduce evidence of the Handwriting and Fingerprint Expert, this revision petition has been filed.

Admittedly, the plaintiff's suit for declaration that he is joint owner in possession of the land measuring 11 kanals and 6 marlas on the basis of will dated 15.06.2000, allegedly executed by Sh. Sukhwinder Singh son of Mohan Singh, is pending. On 06.04.2015, the trial Court framed the additional issue no.3-A with regard to the validity of the Will. The onus to prove the aforesaid issue is on the plaintiff being the propounder of Will

The learned counsel representing the parties are *ad idem* that after 06.04.2015, the plaintiff has not been given any opportunity to prove the aforesaid issue.

The court has declined to grant an opportunity to the plaintiff on the ground that one attesting witness of the Will Sh. Varun Gagneja has already been examined by the trial Court. It has not been disputed that the

aforesaid witness was examined even before the said issue was framed, however, the dispute is with regard to the validity of the Will and the propounder shall be given a fair chance to prove the same as per the necessary principles of a fair trial.

In such circumstances, the view taken by the trial court is myopic/narrow. Hence the order under challenge is set aside.

The revision petition is allowed.

Let the plaintiff be granted sufficient opportunities to produce the aforesaid Will.

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

September 05, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*