

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

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**CR-4674 of 2018 (O&M)
Date of Order: 24.05.2022**

Harcharan Singh and others

..Petitioners

Versus

Rattan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Singla, Advocate, for the petitioners.
Mr. A.S.Dhindsa, Advocate, for respondent no.2 and 3.

ANIL KSHETARPAL, J(Oral)

The plaintiffs assail the correctness of the order dated 28.05.2018 passed by the Civil Judge (Jr. Division), Dera Bassi, while dismissing their application for permission to amend the plaint. The plaintiffs want to assail the correctness and genuineness of the unregistered Will dated 05.08.1992, allegedly executed by Sh. Tarlok Singh (their grand father). It is evident that the plaintiffs have filed a suit claiming that the property in dispute is Joint Hindu Family Ancestral property.

The defendants, while filing the written statement, submitted that Sh. Tarlok Singh had bequeathed the property in their favour on the basis of an unregistered Will. The plaintiffs, now, want to challenge the Will.

The plaintiffs have already claimed that they are owners of the property as the property is Joint Hindu Family Ancestral property. The parties to the suit are members of a large family. The defendants claim the property on the basis of an unregistered Will. The defendants being propounder of the Will are required to prove the same. The plaintiffs are not required to specifically challenge the Will, if any, set up. If the property is found to be Joint Hindu Family Ancestral property, the Court

will pass an appropriate decree. The concept of challenge/annulment of the document, is available under Section 31 of the Specific Relief Act, 1963. It is applicable when the person who himself is the executant, wants its annulment. None of the plaintiffs is the executant of the Will.

In view thereof, the trial court is requested to proceed with the case after framing an issue on the validity of the Will.

Disposed of accordingly.

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

May 24, 2022

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(ANIL KSHETARPAL)
JUDGE

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