

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5138 of 2018(O&M)

Date of decision:08.03.2022

Balbir Kaur @ Amarjit Kaur

...Petitioner

Versus

Chhinderpal Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S.Randhawa, Advocate,
for the petitioner.

Mr. D.S.Virk, Advocate,
for respondent no.1.

Mr. K.S.Brar, Advocate,
for respondent no.2 to 7

ANIL KSHETARPAL, J (Oral)

The petitioner herein is defendant no.7 in a suit for grant of decree of declaration to the effect that the alleged will dated 12.05.1993 is not executed by late Sh. Karnail Singh.

The petitioner was impleaded as a proforma defendant no.7 being daughter of late Sh. Karnail Singh.

During the pendency of the suit, an application was filed by the petitioner with a prayer to transpose her as a co-plaintiff. The suit has been filed by Chhinderpal Kaur daughter of Sh. Teja Singh son of late Sh. Karnail Singh. The petitioner alleges that the original plaintiff has not led any evidence to prove her case. The Additional Civil Judge (Sr. Divn.) dismissed the application on the ground that the petitioner has failed to furnish any explanation with regard to the delay in filing the application.

This Bench has heard the learned counsel representing the

parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner contends that the application was filed by the petitioner as the original plaintiff was not taking interest in prosecuting her suit properly. He further contends that despite the last opportunity, the original plaintiff did not lead any evidence.

Per contra, the learned counsel representing defendants No.2 to 7 contends that the application has been filed only to delay the disposal of the suit.

The dispute in the present case is with regard to the validity of the alleged Will executed by late Sh. Karnail Singh, who was the predecessor in interest of the parties. If it is proved that late Sh. Karnail Singh did not leave behind a testamentary document, then all the Class-I heirs including the petitioner will be entitled to succeed to the property in accordance with the provisions of the Hindu Succession Act, 1956. It was for this reason the petitioner was added as a proforma defendant in the suit.

It is evident that the valuable rights of the parties including the petitioner are to be adjudicated upon by the Court. In such circumstances, it becomes incumbent to permit the parties to lead evidence in order to prove their case. The learned counsel representing the plaintiff does not oppose the prayer.

Keeping in view the aforesaid facts, the impugned order is set aside. The petitioner is permitted to be transposed as plaintiff no.2, along with Chhinderpal Kaur.

It is evident that the suit is pending for nearly last 6 years. Hence, the learned trial court is requested to make sincere endeavour for the expeditious disposal of the suit after granting three opportunities to both the

parties to lead evidence to substantiate their case.

With these observations, the revision petition is allowed.

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

March 08, 2022
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(ANIL KSHETARPAL)
JUDGE

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