

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

CR-2150-2022(O&M)

Date of decision:-14.12.2022

Jai Kishan and another

...Petitioners

Versus

Nand Kishore(since deceased) through his LRs and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.D.S. Nain, Advocate
for the petitioners.

H.S. MADAAN, J.

Though counsel for the petitioner has circulated a written request for adjournment but he has put in appearance in the Court when the case was called.

1. Briefly stated, facts of the case are that plaintiffs Nand Kishore and Parmanand, both of them since dead now represented by their LRs, along with a few others, had brought a civil suit against defendant Jai Kishan and others, seeking a declaration that the plaintiffs are owners in possession of the property left by deceased Smt.Chandro Devi daughter of Sh.Kundan son of Tokha situated at village Alewa, Tehsil Alewa, District Jind on the basis of registered Will No.107 dated 30.3.2017 and that mutation No.7949 dated 15.9.2016 in respect of that property in favour of defendants is illegal, null and void; further seeking a decree for permanent injunction restraining the defendants to alienate the suit

property to anybody else.

2. On getting notice, the defendants appeared and filed written statement contesting the suit. Issues on merits were framed and parties were called upon to lead evidence. During the course of trial, the plaintiffs filed an application for additional evidence for permission to examine handwriting and finger print expert to prove thumb impressions of Chandro Devi on the Will and to summon concerned Clerk from the office of District Welfare Office, Kaithal along with original records relating to widow pension of deceased Smt.Chandro Devi contending that since the will is being denied by the defendants, onus of proving the same is upon the plaintiffs and the question whether the will bears thumb impressions of Chandro Devi or not is a material question for just decision of the case.

3. The application for additional evidence was opposed by the defendants stating that it was filed quite belatedly at the stage of rebuttal evidence and should not be allowed.

4. The trial Court vide impugned order dated 20.4.2022 observed that the procedure of law is handmaid of justice and not its mistress and that the purpose of the Courts is to decide the matter in controversy between the parties on merits and not to punish the parties for their procedural mistakes, therefore finding sufficient reasons to allow the application, the same was so done by the trial Court, subject to payment of cost of Rs.500/- to be paid by the plaintiff to the defendants to compensate the defendants for the consequent delay in conclusion of the trial, leaving the defendants aggrieved and they challenged the said order by way of

filing the present revision petition.

5. I have heard learned counsel for the petitioner besides going through the record.

6. The order under revision is quite detailed and well reasoned and not suffering from any infirmity and illegality. Here the trial Court has exercised its discretion in a proper and judicious manner without there being any element of arbitrariness.

7. I find that no fault can be found with the order passed by the trial Court by exercising revisional jurisdiction.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

14.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No