

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

124

CR-5412-2019

Date of decision: 23.09.2022

SUBEG SINGH @ SHABEGH SINGH AND ANR. ..Petitioners

Versus

MANJIT SINGH SRAI AND ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunil Garg, Advocate
 for the petitioner.

 Mr. Vikas Cuccria, Advocate
 for respondents No.1 to 4.

ANIL KSHETARPAL, J(Oral)

When, the defendants were given opportunity to lead evidence, their application for permission to record deposition of Sh. Subeg Singh @ Shabegh Singh, Smt. Charanjit Kaur and Jasbir Singh, through video conference has been dismissed. The aforesaid persons are stated to be residing in United Kingdom. Sh. Jasbir Singh is stated to be suffering from cancer. The Court has declined the prayer for recording their deposition on the ground that they did not previously appear in the Court and their evidence is irrelevant. The dispute is with regard to the correctness of a registered Will executed by late Sh. Pritam Singh. Sh. Subeg Singh @ Shabegh Singh is the grand-son, whereas, Smt. Charanjit Kaur is the daughter-in-law of the testator. Sh. Jasbir Singh is stated to be known to the testator who used to accompany him when the litigation was pending between Sh. Manjit Singh and Smt. Charanjit Kaur. Sh. Subeg Singh @ Shabegh Singh is the defendant No.1. He is contesting the suit.

Keeping in view the aforesaid facts, the propounder of the Will are required to not only prove the Will but also furnish explanations for all

suspicious circumstances surrounding the Will. Thus, the onus on the propounder is heavy. Hence, these witnesses cannot be said to irrelevant. The defendants are at liberty to lead evidence in order to prove their case and the Court can refuse to record the evidence only if it is found to be totally irrelevant. In the facts of the present case, the observations made by the Court that the evidence of these witnesses are irrelevant, are incorrect.

The Courts have been encouraging proceeding through video conference in order to facilitate opportunity to every party to contest the litigation. Though, the defendants have already examined their attorney however, he failed to disclose the relevant facts.

Hence, the order dated 24.07.2019, is set aside.

The revision petition stands allowed.

The trial Court is requested to permit the defendants to record the statement of the witnesses referred to above through the video conference.

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

September 23rd, 2022

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**(ANIL KSHETARPAL)
JUDGE**

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
Whether reportable	:	Yes/No