

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No. 67 of 2023 (O&M)

Date of decision : 9.1.2023

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Mangat Ram (since deceased) through his legal heir
Karamjit Kaur

.....Petitioner

vs.

Harbans Lal and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sunny K. Singla, Advocate for the petitioner.

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H. S. Madaan, J.

1. Under challenge in this revision petition is order dated 1.12.2022 passed by Additional Civil Judge (Senior Division), Malerkotla, vide which an application filed by plaintiff for directing the defendants No. 1 and 3 to place on record alleged original Will dated 17.9.2005, has been dismissed.

2. Briefly stated, facts of the case are that plaintiff Manohar Lal alongwith his brother Mangat Ram, since dead, now represented by his legal heirs, had brought a suit against their brother Harbans Lal, another brother Tarsem Lal -since dead, now represented by his legal heirs and others, seeking a declaration that the parties are joint owners in possession in equal share of property bearing plot No. 24,

measuring 312-4/9 sq.yards having construction situated at Malerkotla, besides craving for separate possession by way of partition of suit property and grant of permanent injunction.

3. According to the plaintiffs, Sh. Lal Singh, grandfather of the plaintiffs and defendants had two sons, namely, Raunak Ram @ Raunaki Ram and Kasturi Lal. The suit property was earlier owned and possessed by Raunak Ram @ Raunaki Ram, real uncle of plaintiffs and defendants. Raunak Ram @ Raunaki Ram died unmarried and issueless on 20.8.2006 and after his death the parties inherited his estate, becoming co-owners in joint possession of the suit property.

4. On getting notice of the suit, defendants appeared. Defendant No. 1 and 3 filed a written statement contending that the estate of Raunak Ram @ Raunaki Ram is not to go by natural succession, since Raunak Ram @ Raunaki Ram during his life time had executed a Will dated 17.9.2005, in favour of defendants No. 1 and 3. The parties being at issue, went on trial. During the course of proceedings, the plaintiffs filed an application for directing defendants No. 1 and 3 to place on record the alleged original Will dated 17.9.2005, since copy of that Will had been filed by defendants No. 1 and 3, but not the original. Plaintiff No. 1 had filed a criminal complaint under Sections 420, 467, 468 IPC against defendants No. 1 and 3, which is pending and the original Will is necessary to be got examined from a finger print expert. That application was opposed by defendants No. 1 and 3 contending that earlier also the plaintiffs had

filed an application dated 1.12.2021 to place on record Will dated 17.9.2005. Defendants No. 1 and 3 accordingly did so and it was inspected by the plaintiffs and copy of the Will was placed on file. Thereafter, the application was disposed of vide order dated 26.10.2021. The plaintiffs have filed a similar application again, which is not maintainable, therefore, it be dismissed.

5. After hearing the counsel, learned trial Court vide impugned order dated 1.12.2022, dismissed the application. The operative part of the order, for ready reference is reproduced as under :-

“I have heard the learned counsel for the parties and have gone through the case file carefully. Perusal of file reveals that on 1/2/2021 the plaintiff has also filed an application for placing on file the original will dated 17/9/2005 and vide order dated 26/10/2021, the said application had already been disposed of. The present application has been filed by the plaintiff on the same ground for placing on record the original will dated 17/9/2005 as the plaintiff wants to examine the witness in a complaint case regarding the said will. On the other hand, the defendants have stated that they have no knowledge about any complaint as alleged by the plaintiff. The present application has been

filed by the plaintiff after a gap of more than 1 ½ years since the date of earlier application on the same cause of action and same has been filed just to delay the proceedings of present case.

This Court does not find any merits in the present application and same is hereby dismissed”

6. After hearing learned counsel for the revisionist – petitioner, besides going through the record, I do not find any reason to interfere with the impugned order. On a similar application having been filed by the plaintiff on 1.12.2021, the original Will was produced and the same is stated to have been inspected by the plaintiffs, as mentioned in para No. 2 of the order. No justification for filing similar application after a lapse of 1 -1/2 years thereof, is shown to have been given. The plaintiffs at their whims and fancies cannot file repeated applications on a similar point without explaining the justification for the same.

7. Counsel for the revisionist-petitioner has referred to judgments *K.S. Raina and another vs. Haryana Financial Corporation and another 2003 (1) RCR (Civil) 129* and *Hari Mohan Singha and others vs. Tamalai Sinha and others 2020 AIR (Gauhati) 79*, in support of his contentions. I do not find those judgments to be applicable to the present case. The plaintiffs had already availed of opportunity of inspecting the original Will and without any justifiable reason, they cannot seek repeated production

of original Will in such a manner.

8. I do not find any illegality or infirmity with the impugned order or reason to interfere therewith.

9. There is no merit in the revision petition. The same stands dismissed accordingly.

9.1.2023
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(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No