

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

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2023:PHHC:129788

**1. CR-362-2022 (O&M)
Date of decision: 06.10.2023**

CHARANJIT SINGH

..Petitioner

Versus

RAJBIR SINGH AND OTHERS

..Respondents

2. CR-1927-2022 (O&M)

CHARANJIT SINGH

..Petitioner

Versus

RAJBIR SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudeep Mahajan, Advocate
& Ms. Saachi Mahajan, Advocate
for the petitioner.

Mr. Vinod Gupta, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the plaintiff in a pending suit filed for grant of declaration that he and proforma defendants are owners to the extent of 1/8th share each in a suit land measuring 70 kanal and 4 marlas. The genuineness of the Will dated 25.09.1984 allegedly executed by late Sh. Jangir Singh has also been put into question.

2. In these revision petitions, the order passed by the trial Court on 11.11.2021 permitting the defendants No.2 and 3 to file their written statement along with their counter claim is challenged.

3. The learned counsel representing the petitioner while drawing the attention of the Court to various orders passed by the Court from time to time in the suit, submits that the maximum period prescribed for filing the

written statement had already expired and defendants could not be permitted to either file the written statement or file their counter claim.

4. On the other hand, the learned counsel representing the respondents asserted that in the beginning, the parties were making attempts to resolve the dispute by amicable settlement. The matter was referred to the Lok Adalat. Subsequently, the plaintiff himself filed an application for the amendment of the plaint which also remained pending. The suit also remained dismissed in default for a period of three years. Moreover, the defendants were also proceeded ex parte, which was set aside on 25.01.2021. He submits that even otherwise in view of the judgment passed in **Salem Bar Association, Tamil Nadu Vs. Union of India, 2002(4) RCR (Civil) 786**, the Supreme Court held that such provision has been held to be not mandatory.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. Admittedly, the written statement as well as the counter claim had already been permitted to be filed and it is already a part of the record on 07.09.2021.

7. Keeping in view the fact that during this period, the working of the Courts was also adversely affected by the Covid-19 pandemic and certain orders were passed by the Hon'ble Supreme Court excluding the period of Covid-19 pandemic.

8. At this stage, the Court does not wish to interfere.

9. However, the petitioner (plaintiff) shall have the liberty to request the trial Court to frame an issue on the question of maintainability

and limitation in filing the counter claim. If such application is filed, the Court will take the same into consideration while deciding the issues.

- 10. Disposed of accordingly.
- 11. All the pending miscellaneous applications, if any, are also disposed of.

October 06th, 2023 (ANIL KSHETARPAL)
Ay JUDGE

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