

In the High Court of Punjab and Haryana at Chandigarh

202

CR-484-2018 (O&M)

Date of Decision: February 01, 2023

RANBEER SINGH AND ANOTHER

.....PETITIONERS

VERSUS

REKHA SINGH AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. M. K.Verma, Advocate for the petitioners.

None for the respondents.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioners have challenged the order dated 03.01.2018 (Annexure P-4) whereby his application for recasting/framing additional issue has been dismissed as not maintainable.

Learned counsel for the petitioners submits that the petitioners had filed a suit for declaration and permanent injunction. The Will dated 28.12.2001 and 03.01.2006 were in question and, therefore, an issue with regard to the validity and genuineness of the Will ought to have been framed. He also submits that the application could not be preferred earlier due to oversight and merely on account of delay, the application ought not to have been dismissed.

Although notice issued to the respondents had been served in February, 2018, which is reflected in the order of this Court passed on 11.03.2019 but no one has put in appearance on their behalf till date. By the interim order passed on 23.01.2018, it has been directed that the proceedings may continue but the final order may not be passed.

Learned counsel for the petitioners submits that the final order has not been passed in the suit which is pending adjudication.

Heard.

There is no doubt that there was delay on the part of the petitioners/plaintiffs but the delay by itself would not be fatal to the application for framing the additional issue. The issue with regard to the validity of the Will would be required for the proper adjudication of the suit.

Consequently, the petition is allowed and the impugned order dated 03.01.2018 (Annexure P-4) is set aside. The additional issue with regard to the Will Vasika No.354 dated 28.12.2001 and will dated 03.01.2006 would be framed and the trial Court would grant adequate opportunity to both the parties to adduce their evidence in support of their respective stand.

(ANUPINDER SINGH GREWAL)
JUDGE

February 01, 2023
A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No