

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 686 of 2020 (O&M)

Date of Decision: 15.12.2023

Rajwinder Singh

... Petitioner(s)

Versus

Mangal Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Chetan Bansal, Advocate
for the petitioner(s).

Mr. Sandeep Singh Ghangas, Advocate
for the respondent No.1 and 2.

Anil Kshetarpal, J.

1. The order passed on 09.01.2020 by the Civil Judge (Junior Division), Shaheed Bhagat Singh Nagar while dismissing the plaintiff's application for permission to compare the thumb impressions of late Smt.Bakshish Kaur on two Wills relied upon by both the parties with the account opening form available with the bank is challenged in this revision petition by the plaintiff.

2. The suit is at the stage of rebuttal evidence. The plaintiff claims to be exclusive owner on the ground that late Smt.Bakshish Kaur had executed a Will dated 01.06.2005 in his favour, whereas the defendants claimed that late Smt.Bakshish Kaur executed a Will dated 30.03.2006 in favour of the defendant No.2 and 7.

3. On the completion of the pleadings, the Court identified the issues which require adjudication. Issue No.4 reads as under:-

“4. Whether Bakshish Kaur executed Will dated 30.03.2006 in favour of defendant No.2 Jasvir Kaur and Jatinder Singh? OPD”

When the case was at the stage of rebuttal evidence as noticed

above, an application was filed which ultimately got dismissed. It is evident that the plaintiff is entitled to lead rebuttal evidence with respect to the issue, onus to prove whereof is on the defendants. Reliance in this regards can be placed upon two different Division Bench judgments in *Surjit Singh and Others vs. Jagtar Singh and Others 2007 (1) RCR (Civil) 537* and *Jagdev Singh and Others vs. Darshan Singh and Others 2007 (1) RCR (Civil) 794*.

5. It has been brought to the notice of the Court that pursuant to the order passed on 09.01.2020, the plaintiff (petitioner herein) has already engaged the Handwriting and Fingerprint Expert who has submitted his report which has been produced in the Court.

6. The learned counsel representing the respondent No.1 and 2 submits that the aforesaid Expert has also entered into the witness box, however, he is yet to be cross-examined.

7. Keeping in view the aforesaid facts, the present revision petition is allowed. The impugned order dated 09.01.2020 is set aside. The respondents (defendants) shall be entitled to cross-examine the witness. Thereafter, the trial Court will proceed with the matter. The learned counsel representing the petitioner (plaintiff) submits that he does not wish to lead any further evidence.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

December 15, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No