

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

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2023:PHHC:134560

CR-713-2023

Date of decision: 16.10.2023

RIMPI RANI

..Petitioner

Versus

NEENA RANI AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Surinder Garg, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed by the plaintiff to challenge the correctness of the interlocutory order dated 11.01.2023, passed by the trial Court, while allowing the respondents application for permission to amend the written statement.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The plaintiff (the petitioner herein) is daughter of Sh. Lachhman Dass and Smt. Shakuntala Devi. She filed a suit for possession by way of partition of the property against heirs of her brother Sh. Rajiv Kumar, who is stated to have died on 07.04.2011. The suit was filed in the year 2017. During the pendency of the suit when the case was at the stage of defendant's evidence, an application was filed by the respondents for permission to amend the written statement in order to set up two registered Wills executed on 23.12.1992. Both the registered Wills ceased to have any effect because Sh. Rajiv Kumar, the sole beneficiary died before the

executants (both the testators). He submits that despite the specific objections, the trial Court has not examined the aforesaid aspect.

4. On the other hand, the learned counsel representing the respondent submits that only the amendment of the written statement has been allowed.

5. In this case, the trial of the suit has reached at an advanced stage.

6. Undoubtedly, the amendment of the written statement is allowed more liberally as compared to the plaint. However, once a legal objection has been taken by the plaintiff, the Court shall be required to examine the effect of such legal objection.

7. Keeping in view the aforesaid facts, the impugned order is set aside.

8. The trial Court is requested to pass a fresh order in the context of the objections taken by the petitioner under Section 105 of the Indian Succession Act, 1925.

9. With these observations, the revision petition is disposed of.

10. The application be decided within a period of one month from the date of receipt of the certified copy of the order.

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

October 16th, 2023

(ANIL KSHETARPAL)
JUDGE

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