

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

136

2023:PHHC:102396

CR-2004-2022

Date of decision: 08.08.2023

MANJIT SINGH

..Petitioner

Versus

NIRMAL KAUR AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwaljit Singh, Sr. Advocate
with Mr. Vaibhav Kathoch, Advocate
for the petitioner.

Mr. Navjot Singh, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the challenge is to the correctness of the order passed by the First Appellate Court on 04.05.2022 while allowing an application for permission to lead additional evidence.

2. On 19.05.2022, the following order was passed:-

“The learned senior counsel representing the petitioner contends that Sh. Hazara Singh, the petitioner's father, had executed a Will in his favour which was proved by examining both the attesting witnesses. He submits that the First Appellate Court has erred in allowing the application for additional evidence filed by the plaintiffs to produce petitioner's estranged wife.

Notice of motion for 22.07.2022.

The petitioner shall be at liberty to serve the respondents through their counsels before the First Appellate Court. The First Appellate Court is requested to adjourn the case beyond the date fixed by this Court.

To be listed in urgent.”

3. From the reading of the order, it is evident that the First Appellate Court has not tested the application for permission to lead additional evidence on the three eventualities envisaged in Clauses (a), (aa) and (b) of Order XLI Rule 27 of the Code of Civil Procedure, 1908.

4. At this stage, the learned counsel representing the parties jointly pray that let the First Appellate Court decide the application afresh.
5. Keeping in view the aforesaid development, the impugned order is set aside while requesting the First Appellate Court to decide the application for permission to lead additional evidence afresh within a period of one month.
6. Disposed of accordingly.
7. All the pending miscellaneous applications, if any, are also disposed of.

August 08th, 2023
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(ANIL KSHETARPAL)
JUDGE

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