

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

CR-1448-2018(O&M)

Reserved on:-4.7.2023

Date of Pronouncement:-10.7.2023

Soma Singh and others

...Petitioners

Versus

Mandeep Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.D.S. Walia, Advocate
for the petitioners.

Ms.Sukhan Rang, Advocate for
Mr.S.S. Rang, Advocate
for respondent No.1.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 28.3.2017 passed by Additional Civil Judge(Sr.Divn.), Samrala, District Ludhiana vide which evidence of the defendants, who are revision petitioners before this Court, had been closed by order.

2. Briefly stated, facts of the case are that one Gurbax Singh had expired leaving behind his widow – Malkit Kaur and three sons, namely, Soma Singh, Bhagat Singh and Mangal Singh besides three daughters, namely Mandeep Kaur, Charanjit Kaur and Karamjit Kaur. The three married daughters of the deceased Gurbax Singh as mentioned supra had brought a suit against their three brothers and mother seeking a declaration that they are owners in joint possession of 3/7th share out of the estate of their deceased father by natural succession and that alleged

Will dated 13.7.1996 said to have been executed by Gurbax Singh in favour of defendants is forged and fabricated document so is the mutation sanctioned on its basis. They had sought various consequential reliefs also.

3. On getting notice, defendants No.1 to 3 had put in appearance and offered a contest, whereas defendant No.4 did not appear despite service. Issues on merits were framed. The case was fixed for evidence of defendants. As the defendants had failed to conclude their evidence, vide the impugned order, it was closed by the trial Court, leaving the defendants aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was given to respondents/plaintiffs. Only respondent No.1 has put in appearance through counsel.

4. I have heard learned counsel for the parties besides going through the record.

5. Rules of procedure are meant for advancing ends of justice. The Courts are not to get bogged down in technicalities but try to do substantial justice. Although the defendants have not been able to conclude their evidence despite being given several opportunities but considering the facts and circumstances of the case, it would be rather unfair and unjust to shut the doors of evidence upon the defendants.

6. I find that the revision petitioners deserve to be granted one opportunity to conclude their entire evidence.

The plaintiffs shall not be prejudiced in any manner. They can be compensated by way of payment of cost. They would get an

opportunity to cross-examine the DWs to be produced by the defendants and then to lead evidence in rebuttal.

7. Accordingly, the revision petition is accepted. The impugned order is set aside and defendants are afforded one more opportunity to produce their entire evidence at own responsibility, subject to payment of Rs.10,000/- as cost. They would get a demand draft of Rs.10,000/- prepared in the name of the plaintiffs and hand over the same to the plaintiffs/their counsel in the Court and that would be pre-condition for allowing the defendants to produce their evidence. In case of default, this revision petition is to be taken as dismissed. It is made clear that the revision petitioners are to be afforded one effective opportunity only to produce their evidence, which they would bring at their own responsibility. Even if they seek assistance of the Court in summoning of the witnesses, the service or non-service shall not be any ground for further adjournment.

The interim order dated 12.3.2018 passed by this Court that final order may not be passed thus comes to an end.

Since the main revision petition has been allowed, the miscellaneous application(s), if any, stand disposed of accordingly.

10.7.2023
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No