

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****127****CR-3285-2024 (O&M)****Date of Decision : 13.08.2024**

Sharad Kapoor

....Petitioner

VERSUS

Uma Kapoor (since deceased) through LR's and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. M.K. Bhatnagar, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the orders dated 16.09.2016 and 23.01.2024 whereby the application filed by the plaintiff-respondents under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 was allowed and the appeal filed by defendant No.1-petitioner herein was dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondents filed a suit for declaration to the effect that the Will dated 27.02.2013 propounded by the defendant No.1-petitioner herein was a forged and fabricated document and that the plaintiff-respondents alongwith defendant Nos.1 to 3 were co-owners in equal shares of the properties left by Madan Mohan Kapoor i.e. father of the parties. Alongwith the suit an application under Order XXXIX Rules 1 and 2 CPC was also filed. The Trial Court vide order dated 16.09.2016, holding that the Will was under challenge which requires adjudication and can be only gone into once the

evidence has been led and in order to avoid multiplicity of the proceedings, directed both the parties to maintain status quo till final disposal of the suit. Aggrieved by the same an appeal was preferred by defendant No.1-petitioner herein which appeal was dismissed vide impugned order dated 23.01.2024. The First Appellate Court while dismissing the appeal has maintained the order of status quo. Hence, the present revision petition.

3. Learned counsel for the defendant No.1-petitioner would contend that the defendant No.1-petitioner is in possession of the property, however, the matter is lingering on and that the plaintiff-respondents are trying to delay the matter since they have a status quo order in their favour.

4. Heard.

5. In the present case, learned counsel for the defendant No.1-petitioner has stated that the defendant No.1-petitioner is in possession of the property. The challenge in the suit is to the Will alleged to have been executed by father of the parties in favour of defendant No.1-petitioner disinheriting the remaining legal heirs. The plaintiff-respondents have challenged the said Will being forged and fabricated. The question as to whether the Will is a forged and fabricated document can only be gone into once the evidence has been led by the parties. In case the Will is set aside all the legal heirs would have an equal right in the property. The Trial Court in order to avoid multiplicity of proceedings has directed both the parties to maintain status quo. Learned counsel for the defendant No.1-petitioner has not been able to convince this Court that the order of status quo is causing any irreparable harm to the defendant No.1-petitioner. Rather, the

maintenance of status quo by both the parties would ensure that no third-party rights are created in the property and multiplicity of proceedings would be avoided. The argument of learned counsel for the defendant No.1-petitioner that the matter is being delayed by the plaintiff-respondents because there is a status quo order operating also deserves to be rejected as not a single zimini order has been referred to by learned counsel for the defendant No.1-petitioner to show that any delay is being caused by the plaintiff-respondents.

6. In view of the above, the present revision petition being devoid of any merits is accordingly dismissed. However, it is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

13.08.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO