



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140+122

CR-5648-2024 (O&M)
Decided on: 26.09.2024

Pritpal Singh @ Prithpal Singh

...Petitioner

Versus

Avtar Singh and others

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Kunal Vinayak, Advocate
for the petitioner.

RITU TAGORE, J.

CM-17234-CII of 2024

This application is for placing on record true translated copy of
alleged Will dated 05.09.2005 as Annexure P-9.

Application is allowed as prayed for.

Annexure P-9 annexed with the application is taken on record,
subject to just exceptions.

CR-5648-2024 (O&M)

1. This revision is directed against the order dated 12.09.2024
(Annexure P-1), passed by Additional Civil Judge (Senior Division),
Amritsar vide which an application (Annexure P-6), filed by the
petitioner/plaintiff for additional evidence has been dismissed.



2. Learned counsel representing the petitioner/plaintiff submits that the petitioner/plaintiff, instituted a suit for declaration and permanent injunction (Annexure P-2), against the respondents No.1 and 2 (contesting defendants), and respondents No.3 to 8 (proforma defendants), challenging the Will dated 05.09.2005, propounded by the respondents/defendants No.1 and 2, allegedly executed by their father Kunan Singh @ Kundan Singh in relation to the land owned by him in village Mulla Behram Hadbast No.361, Tehsil Amritsar-II/Attari, District Amritsar and Wadali Guru, Tehsil Amritsar-II, District Amritsar, as forged and fabricated document, which was never executed by his deceased father.

3. Learned counsel submits that respondent No.1 and 2/defendant No.1 and 2 in their written statement *inter alia* pleaded that the petitioner/plaintiff had already taken his share from their father in land situated at village Granthgarh. The Will regarding the suit land (village Mulla Behram and Wadali Guru) was validly executed in their favour.

4. Learned counsel submits that due to inadvertence and involvement of voluminous documents in the case, the petitioner could not tender Jamabandi for the year 2021-22 of village Granthgarh, Tehsil Ajnala, District Amritsar, during the course of his evidence. It is stated that Jamabandi for the year 2021-22 is *per se* admissible document. By way of proposed evidence, the petitioner wants to show that defendants No.1 and 2 are also co-owners in the property situated in village Granthgarh. He is not the sole owner, and the property was purchased by their father in the name of all his three sons in equal shares. The petitioner wants to controvert the claimed reason given by the respondents No.1 and 2 regarding the execution



of the Will in their favor to his exclusion. The learned counsel submits that production of Jamabandi is very necessary for the complete and effective adjudication of the matter in controversy and shall not prejudice the defendants. It is stated that the learned trial Court dismiss the application of the petitioner in an arbitrary manner without properly appreciating the facts in controversy. In support of his arguments learned counsel referred to the judgment of co-ordinate Bench of this Court in **Civil Revision No.2439 of 2014 titled 'Jai Parkash and others Vs. Shamlat Deh Hasab Rasad Kabza and others'**. A prayer is made to allow the revision petition by setting aside the impugned order.

5. I have heard learned counsel for the petitioner and have gone through the paper book with his able assistance.

6. Keeping in view the limited prayer made in this revision petition, I am of the considered view that issuing notice to the respondents at this stage would only further delay the proceedings before the learned Tribunal and keeping in view the order that is being passed, notice to the respondents is dispensed with at this stage.

7. Perusal of the impugned order indicates that learned trial Court dismissed the application observing that the proposed evidence is not relevant for the decision of the suit as it does not relate to the suit property. It is a matter of record that the petitioner has instituted a suit for declaration and permanent injunction against the respondents/defendants challenging the Will dated 05.09.2005 propounded by respondents No.1 and 2 with respect to village Mulla Behram and Wadali Guru area. The respondents in their written statement apart from taking other pleas pleaded that the petitioner



had taken his share in the estate of their father during his lifetime. He was given a share in the land in village Granthgarh. Their father performed the marriage of his daughters, and in lieu of the services rendered by them to their father and out of love and affection their father validly executed the Will regarding the suit property in their favor.

8. The petitioner by production of the Jamabandi in question wants to rebut the above said averments of the respondents. The certified copy of the Jamabandi, which is a part of Government record is *per se* admissible. Its production as such will not prejudice the respondents and may lead evidence to its rebuttal. It is well established that the learned Court should adopt a liberal approach, and rights of the parties should be adjudicated on the merits of the controversy, rather than being thwarted by rigid technicalities. Furthermore, the counsel on behalf of the petitioner, undertakes to tender the proposed evidence in one effective opportunity. It is also an established practice of law that the delay can always be rectified by imposing costs.

9. As such, in these circumstances to do complete justice between the parties, I believe that one effective opportunity be granted to the petitioner to tender the proposed evidence before the learned trial Court enabling him to put forth his stand to the assertions and allegations raised by the respondents against him. Accordingly, impugned order dated 12.09.2024 (Annexure P-1) is set aside, subject to payment of Rs.5,000/- as costs payable by the petitioner to respondents No.1 and 2.



10. Petitioner is directed to appear before the learned trial Court on the due date of hearing as fixed by the learned trial Court and make payment of costs and tender the evidence.
11. It is made clear that in case of default, this order shall automatically be vacated.
12. Respondents if not satisfied with this order, may move an application for recalling of this order within 30 days.
13. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

26.09.2024
Rimpal

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