

CR-7351-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.139

CR-7351-2023 (O&M)
Date of Decision: 20.03.2024

NARENDER KUMAR AND OTHERS

...Petitioners

Versus

SUSHILA KUMARI AND ANOTHER

....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Parveen Kumar, Advocate,
for the petitioners.

ARCHANA PURI, J. (Oral)

CM-22378-CII-2023

Keeping in view the averments made in the application, same is
allowed.

Main case

Challenge in the present revision petition is to the order dated
24.05.2023 (Annexure P-4) passed by learned Trial Court in Civil Suit
No.426 of 2023, titled as '*Narender Kumar and others Vs. Sushila and
others*', which was instituted on 12.05.2023, whereby an application under
Order 39 Rule 1 and 2 CPC was dismissed. Furthermore, challenge has also
been made to the order dated 15.06.2023 (Annexure P-6) passed by learned
Appellate Court, whereby the appeal preferred by petitioners/plaintiffs was
also disposed of, but the relief was denied to the petitioners.

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Learned counsel for the petitioners heard.

Feeling aggrieved by two affirmatory orders passed by learned Courts below, the present revision petition has been filed by the petitioners. Narender Kumar, brother of the deceased-Dharmender Singh, along with his two sisters, had filed a suit for declaration with regard to their entitlement to inherit the property of the deceased. The said suit had been filed against the widow of the deceased-Dharmender Singh and along with the suit, an application under Order 39 Rule 1 and 2 CPC was also filed, thereby seeking directions to the respondents/defendants, not to sanction the mutation in favour of respondent No.1, on the basis of the intestate inheritance of the suit property. The petitioners are relying upon the Will dated 05.11.2021, allegedly executed by Dharmender Singh and it has come forth that the said Will is unregistered document.

On query by the Court, it has been disclosed by learned counsel for the petitioners that prior to the death of Dharmender Singh, there was no litigation between Narender Kumar and Sushila Kumari. Copy of the Will is coming on record. Keeping in view the relationship between the deceased and respondent No.1-Sushila Kumari, learned Trial Court had appropriately dismissed the application under Order 39 Rule 1 and 2 CPC. Furthermore, as a matter of extra guard, learned Appellate Court in the appeal, filed at the instance of the present petitioners, had given appropriate direction that in the eventuality of respondent No.1-Sushila Kumari, intending to alienate or create any type of encumbrance over the suit property, then reflection of the pending civil suit (CS-426-2023 instituted on 12.05.2023 titled as '*Narender Kumar and others Vs. Sushila Kumari and another*' should be given in the intended/proposed alienation deed.

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Considering the same, the orders passed by learned Trial Court, as well as learned Appellate Court, warrants no interference of this Court while exercising the revisional jurisdiction.

Hence, the instant Civil Revision petition is hereby dismissed.

20.03.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No