

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.7452 of 2023

Date of Decision: 29.01.2024

Nachhatar Singh and others

...Revisionists-Petitioners

Versus

Tirath Singh @ Tejinder Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Maninderjit Singh Bedi, Advocate
for the revisionists-petitioners.

MEENAKSHI I. MEHTA, J.

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioners-plaintiffs No.1 to 3 (here-in-after to be referred as 'the petitioners') have assailed the order (Annexure P-7) passed by learned Additional Civil Judge (Senior Division), Phool (for short 'the trial Court') on 27.10.2023 in ***Civil Suit No77 of 2018*** titled as '***Nachhatar Singh and others Vs Tirath Singh @ Tejinder Singh and others***', whereby the application (Annexure P-4), moved by them for seeking permission to produce the Will dated 17.04.1990, as claimed to have been executed by Gurdial Singh (for short 'the testator') in favour of petitioner No3-Manjit Singh, on the record to compare the signatures of the said testator thereon with his signatures on the Will dated 05.05.1999, placed by respondents-defendants No.1 to 6 on the file, has been dismissed.

2. I have heard learned counsel for the petitioners in the present revision-petition, at the preliminary stage and have also gone through the file carefully.

3. Learned counsel for the petitioners contends that the testator had executed a Will on 17.04.1990 in favour of the afore-named petitioner No.3 and the Will dated 05.05.1999, as purported/claimed by respondents-defendants No.1 to 6 to have been executed by him (testator), does not actually bear his signatures and in these circumstances, the production of the Will dated 17.04.1990, on the record is essential so that the signatures of the testator on the same could be compared with his alleged signatures on the Will dated 05.05.1999 but vide the impugned order, the trial Court has wrongly dismissed the above-mentioned application, as moved by the petitioners for the afore-said purpose and therefore, this order is not legally sustainable and hence, the same deserves to be set-aside.

4. However, the above-raised contention is devoid of any merit because a perusal of the plaint (Annexure P-1) reveals that the petitioners and their co-plaintiffs have sought a decree for declaration to the effect that they and the defendants are joint owners in possession of the suit land and thus, they (plaintiffs) have not claimed their right in the said land on the basis of the Will dated 17.04.1990. Rather, the signatures of the testator on the disputed Will dated 05.05.1999 can be got compared with his admitted signatures on any other document and even otherwise, his signatures on the Will dated 17.04.1990 cannot be presumed to have been admitted by the respondents-defendants No.1 to 6, in the circumstances when in their Reply

(Annexure P-6) to the afore-referred application, they have categorically opposed the prayer of the petitioners to allow them to produce the said Will on the record. It being so, the production of the Will dated 17.04.1990 cannot be considered to be essential for the proper and just decision of the Civil Suit under reference.

5. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the revision-petition in hand, being bereft of any merit, stands dismissed.

29.01.2024
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*