



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

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**CR No.450 of 2024 (O&M)
Date of Decision :08.07.2025**

Krishna Devi and others

.....Petitioners

Versus

Gopal Krishan and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL**Present :** Mr. Akhil Kashyap, Advocate for the petitioners.

Mr. Divyanshu, Advocate for respondent No.1.

VIKRAM AGGARWAL, J. (Oral):

The instant revision petition preferred under Article 227 of the Constitution of India assails the order dated 04.12.2023 (Annexure P-1), vide which the Court of Addl. Civil Judge (Sr. Divn.), Moga, dismissed the application filed by the petitioners-plaintiffs for additional evidence.

2. The petitioners-plaintiffs (Krishna Devi and others) instituted a suit for declaration (Annexure P-2) to the effect that they were owners in possession of two properties (fully described in the plaint) situated in Karnal. They based their claim on Will dated 23.12.2013 executed by Shri Ram Bilas in favour of the plaintiffs. Notably, plaintiffs were the widow and two sons of Ram Bilas whereas defendant No.1 was also a son of Ram Bilas. The case set up was that Shri Ram Bilas was the owner of the suit property. After his death, on the basis of Will dated 23.12.2013, the first property had been transferred in the name of the plaintiffs whereas property No.2 was still to be mutated as the defendants had also lodged a claim



before the HUDA authorities.

3. The suit was opposed by the defendants. Defendant No.1 filed written statement (Annexure P-3) wherein, apart from denying the other averments, a stand was taken that the Will dated 23.12.2013, reliance upon which was placed by the plaintiffs, was a forged and fabricated document. It was averred that Ram Bilas was an educated person and used to append his signatures on documents whereas the Will being set up by the plaintiffs was allegedly thumb marked which itself proved that the Will was a forged and fabricated document.

4. After the pleadings had been filed, issues were framed and evidence was concluded. When the case was fixed for rebuttal evidence/arguments, an application under Section 151 CPC (Annexure P-4) was moved by the plaintiffs for adducing additional evidence. By way of the said application, they wanted to produce on record certain documents to prove that Shri Ram Bilas was suffering from paralysis five years prior to his death. The medical record was sought to be produced. A transfer deed which had been executed by Shri Ram Bilas and had been thumb marked by him was also sought to be produced. Still further, a criminal revision petition filed by the defendants in the High Court, in which they had stated that Ram Bilas was suffering from paralysis was sought to be produced by way of additional evidence. It was averred that though these documents were in the knowledge and in possession of Smt. Krishna Devi, she was unable to produce the same before her counsel and after the same came to the notice of the other family members, they produced the said documents



before their counsel after which the instant application was moved.

5. The application was opposed by the defendants by way of reply (Annexure P-5). It was averred that allowing the application would amount to a *de novo* trial which was not permissible. It was averred that Will had not been proved as per law and that the application was an attempt to fill up the lacuna in the case.

6. By way of the impugned order (ibid), the application was dismissed leading to the filing of the instant revision petition.

7. I have heard learned counsel for the parties.

8. Learned counsel for the petitioner has submitted that the impugned order is not sustainable. He submits that a specific stand was taken by the defendants that Shri Ram Bilas was an educated person and used to append his signatures and that under the circumstances, he could not have thumb marked the Will, which proved that the Will was a forged and fabricated document. Learned counsel has referred to the documents which have been placed on record and submits that the said documents are essential for the just and fair decision of the case. Learned counsel also submits that the additional evidence shall be led in the shortest possible time so as not to delay the decision of the case. In support of his contentions, learned counsel has placed reliance upon **Narinder Kumar Vs. Shri Sath Naryan Mandir 2011(2) Civcc 678**, **Gurdip Singh Vs. Harpinder Singh Gill 2020(2) R.C.R. (Civil) 598** and **K.K.Veluswamy Vs. N. Palanswamy, Civil Appeal No.2795-2796 of 2011**.

9. On the other hand, learned counsel representing the



respondents-defendant No.1 submits that there is no illegality in the impugned order and that allowing the application for additional evidence would mean that a *de novo* trial would taken place. Learned counsel submits that the petitioners were unable to prove that despite due diligence, the documents could not be produced when evidence of the petitioners/plaintiffs was going on.

10. I have considered the submissions made by learned counsel for the parties.

11. The suit was filed by the petitioners/plaintiffs. They claimed to have become owners of the suit property on the basis of Will dated 23.12.2013 stated to have been executed by Shri Ram Bilas. It is an admitted case of the parties that the Will, which was produced before the trial Court, was a thumb marked document. A stand was taken in the written statement that Ram Bilas was an educated person and he used to append his signatures on documents.

12. Concededly, evidence of parties had concluded after which the application for additional evidence was moved. The plaintiffs sought to produce 7 documents by way of additional evidence:-

“1. Criminal Revision Petition.

2 & 3 certificate by Senior Medical Officer dated 13.3.2012 alongwith medical record of the government hospital.

4. Life Care Hospital, Sector 7, Urban Estate, Karnal dated 03.06.2011.

5. Another record of Parveen Hospital Private Limited. 6. Vasika No. 4381 dated 16.09.2013.



7. Family photograph.”

13. No doubt, the said documents should have been produced when evidence of the petitioners/plaintiffs was going on. However, the same was not done. If one goes through the application and the documents placed on record, it emerges that the said documents would be essential for the just and fair decision of the case. No doubt, a Will would have to be proved in terms of the provisions of Section 63 of the Indian Succession Act 1925 and Section 68 of the Indian Evidence Act 1872. However, the documents which are sought to be produced by additional evidence may prove to be extremely useful for the Court to arrive at a just and fair decision. Procedure, it is said, is the handmade of justice and should be used to advance the cause of justice rather than to scuttle it.

14. No doubt, there is no provision for leading of additional evidence at the trial stage, the same having been deleted. However, it is well settled that exercising powers under Section 151 CPC, permission to lead additional evidence can always be granted. Reference can be made to the judgment of a Co-ordinate Bench in the case of **Gurdip Singh (supra)** wherein a similar view was taken. Even in the case of **Narinder Kumar (supra)**, a Co-ordinate Bench had taken a similar view.

15. In view of the above, the present revision petition is allowed. The order dated 04.12.2023 (Annexure P-1), passed by the Court of Civil Judge (Sr. Divn.), Moga, is set aside and the application for additional evidence is allowed. This shall, however, be subject to payment of Rs. 15,000/- as costs which shall be paid to the defendants. Petitioners/plaintiffs



shall be granted only two effective opportunities to produce their additional evidence after which an opportunity shall also be granted to the respondents/defendants to rebut the said evidence. The parties may appear before the trial Court on 16.07.2025 or the date already fixed, whichever is earlier.

(VIKRAM AGGARWAL)
JUDGE

08.07.2025
Manoj Bhutani

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