

2025:PHHC:129086



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

**CR-4098-2018 (O&M)
Decided on:-17.09.2025**

Kapil Kumar

....Petitioner..

VS.

Hari Singh and ors.

....Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vrishank Suri, Advocate for
Mr. Vivek Suri, Advocate,
for the petitioner.

Mr. Shamsheer Singh Tomar, Advocate,
for respondent No.1.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been laid to an order dated 10.01.2018 passed by the Court of learned Civil Judge (Junior Division), Jhajjar, whereby, the evidence of the petitioner-defendant No.1 was closed by Court order.

2. Briefly stating, a suit for declaration along with permanent injunction assailing the validity of Will dated 01.03.2001 was filed at the instance of respondents No.1 to 3-plaintiffs against the petitioner-defendant No.1 on 03.12.2014. Written statement on behalf of petitioner-defendant No.1 was filed on 04.05.2015. The proforma respondent No.4 herein/defendant No.2 was proceeded against ex-parte by the learned Trial Court on 21.08.2015, followed by framing of issues on 06.10.2015. The evidence of respondents No.1 to 3/plaintiffs was closed by Court order on

05.07.2017 and thereafter, 06.09.2017 was fixed as first date for recording of the evidence of the petitioner-defendant No.1. Again, the matter was adjourned to 28.09.2017; 06.12.2017 and 10.01.2018. On 10.01.2018, the evidence of petitioner-defendant No.1 was closed by Court order. Hence, the present revision petition.

3. I have heard learned counsel for the parties and gone through the paper book.

4. Perusal of record shows that the evidence of respondents No.1 to 3-plaintiffs was closed by Court order on 05.07.2017 and thereafter, the matter was listed for recording of the evidence of the petitioner-defendant No.1 for the first time on 06.09.2017 and the same was closed by Court order on 10.01.2018; having afforded 3-4 opportunities to him.

4.1. In the facts and circumstances of the present case, where the validity of the Will dated 01.03.2001 (registered on 02.03.2001) is in question, it would be in the interest of justice, in case, the petitioner-defendant No.1 is afforded sufficient opportunity to establish the valid execution of the same in his favour by his grand-father, namely, Mir Singh, especially, when the petitioner-defendant No.1 has not even got himself examined as a witness so far.

5. In view of the aforesaid facts and circumstances and by adopting a pragmatic approach; rather than going too technical on procedural aspects, the impugned order dated 10.01.2018 is hereby set aside. Accordingly, the present petition is allowed and the petitioner-defendant No.1 is afforded two effective opportunities to conclude his entire evidence, however, subject to payment of costs of Rs.10,000/- to be deposited with the Punjab State Legal Services Authority Disaster Relief Fund, Account

No.44426937384, IFSC Code SBIN0014656, Branch Sector 68, SAS Nagar
Mohali.

6. Pending applications, if any, also stand disposed of.

17.09.2025

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(HARKESH MANUJA)
JUDGE

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