



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

(123)

CR No. 3419 of 2025 (O&M)

Date of Decision: 08.07.2025

Tarsem Singh (since deceased) through LRs

...Petitioners

Versus

Ranjit Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ranbir S. Pathania, Advocate
for the petitioners.

VIKRAM AGGARWAL, J (ORAL)

This is a petition preferred under Article 227 of the Constitution of India assailing the order dated 20.02.2025 (Annexure P-6), passed by the Court of Additonal Civil Judge (Senior Division), Mukerian, vide which application filed by the petitioners [defendants No.31 (a) and (b)] for leading secondary evidence was dismissed.

2. The facts, as emanating from the revision petition, are that respondent No.1/plaintiff (Ranjit Singh) instituted a suit (Annexure P-1) for declaration to the effect that he and defendant No.31 (Tarsem Singh, father of the present petitioners) were joint owners in joint possession of suit land (fully described in the plaint) situated at village Sandhwal, Tehsil Mukerian, District Hoshiapur.

3. The petitioners filed written statement (Annexure P-4) stating that they had inherited the estate of Tarsem Singh by way of registered Will dated 21.09.2023. They took a stand that they had 1/5th share in the suit land and the plaintiff also had 1/5th share. They accordingly prayed that a decree

be passed declaring the petitioners to be joint owners in joint possession to the extent of 1/5th share in the suit property.

4. Subsequently, an application for secondary evidence (Annexure P-5) was moved. It was averred that they had earlier moved an application seeking a direction to the plaintiff to produce original Will dated 14.06.1955 executed by Aklo Devi in favour of her grandson Sarwan Singh and his brothers who were the plaintiff, defendant no.1, 3 and 31. It was averred that the plaintiff had filed a reply to the application that he was not in possession of the said Will dated 14.06.1955. It was averred that since the said Will was a material document, they may be permitted to prove the same by way of secondary evidence.

5. The application was dismissed by way of the impugned order, leading to the filing of the instant revision petition.

6. I have heard learned counsel for the petitioner.

7. Learned counsel for the petitioner submits that the trial Court erred in dismissing the application. He submits that once the plaintiff was not in possession of the said Will and it was a material document, the application should have been allowed.

8. I have considered the submissions made by learned counsel for the petitioner but find the same to be totally devoid of merit.

9. The Will dated 14.06.1955 was neither relied upon in the plaint nor in the written statement. It is not understood as to what relevance the Will would have. In any case, once the petitioners/defendants no.31 (a) and (b) had not relied upon the said Will and had not even referred to it in the written statement, no evidence could be led to prove the same either by way

of primary evidence or by way of secondary evidence. Any evidence beyond the pleadings would not be permissible. The trial Court, therefore, rightly rejected the application. I do not find any illegality in the said order warranting interference.

That being so, the present petition is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

July 08, 2025
Rekha

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