



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4904 of 2024 (O&M)
Date of Order:11.02.2025

Satpal

.Petitioner

Versus

Rani and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Ghangas, Advocate
for the petitioner.

Mr. Ankit Chahal, Advocate
for respondent nos.1 to 3.

ANIL KSHETARPAL, JUDGE (Oral)

1. **BRIEF FACTS**

1.1 The petitioner herein is defendant no.1 in a plaintiffs' suit for grant of decree of declaration with consequential relief of permanent injunction.

1.2. By impugned order, the trial court has permitted the plaintiffs to amend the plaint and challenge the registered Will executed by late Sh. Hazari Lal on 26.08.2010.

1.3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed

1.4. Late Sh. Hazari Lal was owner of the property. He had five sons, namely, Sh. Satpal, Sh. Bijender, Sh. Mukhtyar Singh, Sh. Ram Chander and Sh. Rampal. During his life time, Sh. Ramphal died leaving



behind his widow and two daughters. Late Sh. Hazari Lal during his life time executed a transfer deed on 18.10.2004, transferring 4/5th of his property in favour of his four sons, namely, Sh. Satpal, Sh. Bijender, Sh. Mukhtyar Singh, Sh. Ram Chander. Thereafter, he executed a registered Will in favour of the aforesaid four sons on 26.08.2010, bequeathing his 1/5th share. The plaintiffs namely, Smt. Rani, Smt. Rinku and Smt. Birmati heirs of Sh. Rampal filed a suit for decree of declaration that the release deed/transfer deed dated 18.10.2004, is not legal and the plaintiffs are owners in possession of 1/5th share of the property left behind by late Sh. Hazari Lal.

1.5. The defendants while filing the written statement disclosed that late Sh. Hazari Lal bequeathed remaining 1/5th share by a registered Will dated 26.08.2010, in favour of defendants. Subsequently, the plaintiffs amended the plaint to claim that the property in the hands of late Sh. Hazari Lal was ancestral property which was allowed.

1.6. On 19.05.2023, the plaintiffs filed an application for direction to the respondents to produce copy of the registered Will which appears to have been dismissed as not pressed. When the case was at the stage of final arguments, the plaintiffs filed an application for permission to amend the plaint in order to challenge the registered Will which has been allowed.

2. **ARGUMENTS PUT FORTH BY THE LEARNED COUNSEL REPRESENTING THE PARTIES:-**

2.1. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

2.2. The learned counsel representing the petitioner contends that the respondents (plaintiffs) were in knowledge of the registered Will



executed by late Sh. Hazari Lal and in any case, in December, 2017, the defendants while filing the written statement disclosed this fact about the registered Will, however, the plaintiffs never sought amendment. He further contends that the Court has allowed the application without examining due diligence on the part of the plaintiffs.

2.3. Per contra, the learned counsel representing the respondents submits that the Will is required to be challenged the moment it was produced in evidence.

3. ANALYSIS AND DISCUSSION

3.1. This court has considered the submissions of the learned counsel representing the parties.

3.2. Ordinarily, the courts are reluctant in interfering in the interlocutory orders passed by the trial court permitting amendments in the pleadings, however, in this case, the trial court has allowed the application without recording *prima-facie* satisfaction about plaintiffs' due diligence. First of all, there is no requirement to challenge the registered Will particularly when the plaintiff has claimed inheritance of property of late Sh. Hazari Lal on the basis of natural succession. The plaintiffs while filing the suit have claimed 1/5th share in the property of late Sh. Hazari Lal and challenged the release deed. Secondly, the alleged registered Will executed by late Sh. Hazari Lal was brought to the notice of the plaintiffs in December, 2017, whereas the application was filed in August, 2024. No explanation for delay of nearly seven years in filing the application has been disclosed. Moreover, the case was at the fag end i.e. for final arguments.

The court has also not examined the proviso to Order VI Rule 17 CPC

before passing the impugned order.

4. **DECISION:-**

4.1. Keeping in view the aforesaid facts and discussion, the impugned order passed by the trial court is set aside. The trial court is requested to pass a fresh order in accordance with law.

4.2. The revision petition is allowed.

4.3. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

February 11, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No