**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****119****CR-1276-2026 (O&M)****Date of decision: 27.03.2026****Sudarshan Kumar****...Petitioner(s)****Vs.****Gurminder Dhaliwal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

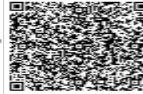
Present:- Mr. Ashish Pal Kaushal, Advocate and
Ms. Pallavi Bahre, Advocate for the petitioner.

Mr. Mansur Ali, Senior Advocate with
Mr. Amit Choudhary, Mr. Kamaljeet Singh and
Mr. Vaibhabh Garg, Advocates for
respondents No.1 to 4.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the petitioner/defendant No.1 seeking setting aside of the order dated 27.01.2026 (Annexure P-10) passed by Ld. Civil Judge (Jr. Divn.), Ludhiana; whereby application filed by the respondents/plaintiffs for reframing of issues, has been partly allowed and additional issue has been framed.

2. It is *inter alia* submitted by learned counsel for the petitioner that despite grant of numerous opportunities, plaintiffs/respondents had failed to lead any evidence. Consequentially, their evidence was closed by order vide order dated 17.11.2025, which order has attained finality. Now after evidence of the petitioner was also closed in

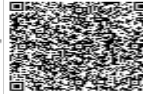


affirmative, plaintiffs' want to stand on the petitioner's legs. It is contended that vide the present application, plaintiffs only want to fill the lacunae in their case. It is submitted that if the impugned order is sustained, and application of the plaintiff for reframing of issue is allowed, the same would amount to *denovo trial* which is already at the stage of final arguments.

3. It is accordingly prayed that the present Revision Petition be allowed; and the impugned order be set aside.

4. *Per contra*, learned Senior Counsel for the respondent/plaintiffs vehemently submits that the Will dated 16.06.2009 has been propounded by the petitioner. As such, it is for the petitioner to prove the said Will. The onus to prove the said Will, cannot be put upon the respondents/plaintiffs. No doubt, it is the contention of the respondents that Will is fraud. So, the respondents are only called upon to prove the fraud. However, the onus to prove the Will itself, is upon the petitioner. It is submitted that even under Sections 67 and 68 of the Indian Evidence Act, the onus is upon the petitioner to prove the Will, being propounder of the Will. It is submitted that it is for this reason that the 2002 Amendment was brought in, whereby under Order 14 Rule 5 CPC vast power is granted for framing of additional issue "at any stage".

5. In support, learned Senior Counsel for the respondents/plaintiffs refers to the judgment passed by this Court in

**Damanpreet Singh v. Jaspal Singh, (Punjab And Haryana) : Law Finder**

Doc Id # 2069342; wherein it is held as under:-

“Will - Decree sought on the ground that will is forged - Trial Court rightly called upon defendant to prove the Will, at the first instance.”

The relevant paras of the said judgment are as under:-

“5. It is well settled that the propounder of the testamentary disposition is required not only to prove the Will but also required to furnish explanation in respect of all the surrounding suspicious circumstances. The onus is on the propounder to prove that the Will was executed in accordance with the provisions of the Indian Succession Act, 1925 and also to prove the Will in accordance with section 68, 69 and 71 of the Indian Evidence Act, 1872.

6. Moreover, the onus to prove a particular fact lies upon the party who affirms such fact and wishes the Court to believe in its existence and not upon the party who denies such fact. On a careful perusal of the issues, it is evident that the primary onus to prove the Will is on the defendant No.1 to 3. The remaining issues are only formal in nature. In fact, the remaining issues are based either upon the prayer made in the suit or the preliminary objections taken by the defendants while filing their respective written statements.”

6. Learned Senior Counsel for the respondents/plaintiffs further refers to the judgment passed by this Court in **Hari Chand v. Krishan Kumar, (P&H) : Law Finder Doc Id # 30009**; wherein it is held as under:-

“Civil Procedure Code, Order 14 Rule 5 - Additional issue - Delay - Additional issue can be framed at any stage of the suit



- Prayer cannot be declined on the ground that plaintiff has already led his evidence."

7. Learned Senior Counsel for the respondents/plaintiffs further refers to the following judgments: -

1. **Gorantla Thataiah v. Thotakura Venkata Subbaiah, (SC) : Law Finder Doc Id # 109565;**
2. **Gurcharan Singh v. Gurdarshan Singh, (P&H) : Law Finder Doc Id # 353203;** and
3. **Vijay Singh Yadav v. Smt. Krishna Yadav (Madhya Pradesh) (Jabalpur) : Law Finder Doc Id # 2511800.**

8. He accordingly prays for dismissal of the present Revision Petition.

9. No other argument is raised by learned counsel for the parties. I have heard learned counsel and perused the file. I find merit in the submissions advanced on behalf of learned counsel for the petitioner.

10. Brief facts of the case in chronological order are as follows: -

07.05.2019: Plaintiffs/respondents No.1 to 4, had filed instant suit (Annexure P-1) on 07.05.2019 for declaration and permanent injunction.

24.11.2021: Petitioner/defendant No.1 had filed written statement dated 24.11.2021 (Annexure P-2 colly); and defendant No.2 had filed written statement dated 17.5.2022 (Annexure P-2 colly).

21.11.2023: Vide order dated 21.11.2023 (Annexure P-3), issues were framed in the matter.



17.11.2025: As plaintiffs failed to lead evidence despite grant of several opportunities, consequentially plaintiffs' evidence was closed by order, vide order dated 17.11.2025 (at page 176 of the paper-book)

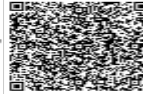
24.11.2025: Thereafter, defendant No.1 had closed his evidence in affirmative vide order dated 24.11.2025 (Annexure P-7) while reserving his right to produce the entire evidence if any stage the plaintiff is given an opportunity to produce her evidence.

04.12.2025: Against aforementioned order dated 17.11.2025 whereby evidence of the plaintiffs had been closed by order, plaintiffs had filed CR-8971-2025 before this Court; which came to be dismissed vide order dated 04.12.2025 (Annexure P-8).

08.01.2026: It is only thereafter, that the plaintiffs moved instant application dated 08.01.2026 (Annexure P-9) for reframing of issue no.3.

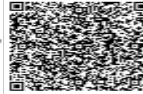
27.01.2026: Vide impugned order dated 27.01.2026 (Annexure P-10), application of the plaintiffs for reframing of issues has been partly allowed.

11. Vide the instant Civil Suit dated 17.5.2019 (Annexure P-1), the plaintiffs are seeking declaration that they are the only legal heirs of Shri Mohinder Singh and Smt. Jagdish Kaur; **and** further seeking declaration that the Will dated 16.6.2009 alleged to have been executed by Mohinder Singh in favour of the petitioner is a forged and fabricated document; **and** further declaration that the Will dated 30.5.2016 alleged to be registered on 6.6.2016 alleged to be executed by Smt. Jagdish Kaur, is also illegal and void; **and** for declaration that the decree dated



12.11.2016 was secured on misrepresentation, et cetera; **and** declaration that Shri Mohinder Singh, Ripjit Singh, and Jagdish Kaur had died intestate and the properties held by them have to devolve through natural succession upon their legal heirs, being the plaintiffs; **and** for declaration that the plaintiffs are owners of the properties described in the headnote; **and** for declaration that any mutation entered in the revenue record on the basis of Will dated 16.6.2009 of Shri Mohinder Singh and 30.5.2016 of Smt. Jagdish Kaur are illegal and without jurisdiction; **and** for permanent injunction, restraining the petitioner/defendant from asserting any right title or interest in respect to the aforesaid properties.

12. A reading of the above facts shows that it is the plaintiffs who are seeking a declaration that the Will dated 30.5.2016 is a false and fabricated document. The said Will is decried as false and fabricated by the plaintiffs themselves. No doubt, petitioner in his written statement has resisted the suit of the plaintiffs. But it is a declaratory suit of the plaintiffs themselves. Consequently, the onus shall fall upon the plaintiffs to prove that they are entitled to the declaration sought by them. Reverse onus cannot be put upon the defendant. It is for the plaintiffs to prove their own case. It is for the plaintiffs to prove that the Will dated 30.5.2016 is a false and fabricated document as alleged. The petitioner cannot be called upon to lead evidence in the negative. It is not a declaratory suit filed by the petitioner.



13. Further, based on the pleadings of the parties, following issues were framed by trial court on 21.11.2023:

“1. Whether the plaintiff is entitled to the relief of declaration that plaintiff no.4, late Ripjit singh and smt. Jagdish kaur were the only legal heirs of late Sh.Mohinder singh and further the plaintiff no 1 to 3 being wife and daughters and late Smt. Jagdish Kaur being mother were the only legal heirs of late sh. Ripjit Singh? OPP.

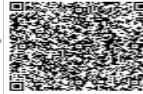
2. Whether the plaintiff is entitled to relief of decree for declaration that will dated 16.06.2009 said to have been executed by Mohinder singh is a forged and fabricated document and was never executed by shri Mohinder singh and has been fabricated in pre-signed papers given to a tax consultant for some other purpose and therefore the will over such blank pages is illegal, null and void? OPP.

3. Whether the plaintiff is entitled to relief of declaration that alleged will said to be registered on 06.06.2016, alleged to be executed by smt. Jagdish kaur is also illegal, null and void being the result of fraud and misrepresentation, undue influence and was never executed voluntarily? OPP.

4. Whether plaintiff is entitled to relief of declaration that the decree dated. 12.11.2016 passed by the court of Shri Varinder kumar, presiding officer, national lok Adalat, Ludhiana in CS no. 529 of 2.7.2016 is illegal, null and void as statement of Gurminder Dhaliwal was secured on misrepresentation and is a result of fraud? OPP

5. Whether plaintiff is entitled to relief of declaration that shri Mohinder singh, Ripjit Singh and Jagdish kaur had died intestate and the properties held by them on their death, devolved upon their natural legal heirs? OPP

6. Whether plaintiff is entitled to relief of declaration that the



plaintiffs are owners of the properties jointly as detailed in headnote of the plaint from (i) to (xv)? OPP

7. Whether plaintiff is entitled to relief of declaration that any mutation entered in the revenue record on the basis of will dated 16.06.2009 of shri Mohinder singh and smt jagdish kaur on 06.06.2016 are illegal, without jurisdiction and required to be corrected? OPP

8. Whether plaintiff is entitled to relief of declaration that gift deed executed by the defendant no.1 in favour of defendant no.2 out of the property in dispute, vide gift deed dated 28.05.2019 with document no 2019-20/22/1/492 is an act of fraud and does not effect the right of the plaintiff? OPP

9. Whether the suit of the plaintiff is not maintainable?OPD.

10. Whether plaintiffs are estopped by their own act and conduct from challenging the Will dated 16.06.2009?OPD

11. Whether plaintiff no. 1 herself or on behalf of plaintiffs no. 2 and 3 has no right or locus standi to challenge the will dated 16.06.2009?OPD.

12. Whether plaintiffs no. 1 and 4 are estopped from challenging the will dated 16.06.2009 executed by Late Mohinder Singh?OPD

13. Whether plaintiffs no. 1 and 4 purposely, dishonestly and out of greed have concocted a false story of finding blank signed papers of Mohinder Singh and Ripjit Singh?OPD.

14. Whether plaintiff no. 1 herself and on behalf of plaintiffs no. 2 and 3 and also plaintiff no. 4 has no locus standi to challenge the will of late Mohinder Singh dated 16.06.2009 and the Will of Jagdish Kaur dated 30.05.2016, registered on 06.06.2016? OPD.

15. Whether plaintiff have absolutely no cause of action to file the present suit?OPD.

16. Whether suit of the plaintiff is also time barred?OPD



17. Whether the plaintiffs have concealed material facts from the Court?OPD.

18. Relief.”

14. From the above, it is clear that in respect of the disputed Will dated 30.5.2016 registered on 6.6.2016, specific issues Nos.3 and 14 have already been framed by the learned Trial Court. The said issues were framed as per the pleadings of the parties. No objection was raised by the plaintiffs at that stage. *Ld. Civil Judge has categorically recorded in order dated 21.11.2023 that “No other issues arise or has been pressed for by the learned counsel for the parties. Parties shall present within 15 days, list of witnesses whom they propose to call to give evidence or to produce documents, failing which parties shall produce their entire evidence at their own risk & responsibility. No assistance from the court shall be provided. Now to come up for applicant evidence on 18.12.2023, filing PF, Diet money and list of witnesses within 15 days.”* Thus, it is clear that no objection whatsoever was raised by the respondents at the time of framing of issues on 21.11.2023; or even thereafter at any stage. Accordingly, it is not open to the plaintiff to plead at this belated stage vide application dated 8.1.2026, that issues were not properly framed.

15. The record further reveals that after framing of issues, opportunities had been granted to the plaintiffs to lead evidence on 18.12.2023, 23.05.2024, 10.07.2024, 29.10.2024 subject to cash of Rs.100/- to be paid to defendant, 26.11.2024 subject to last and final opportunity, 12.12.2024, 03.04.2025, 12.05.2025, 31.05.2025,



04.07.2025, 01.08.2025 subject to last and final opportunity, 21.08.2025 subject to last and final opportunity, 25.09.2025 with no further opportunity, 06.10.2025 subject to last and final opportunity, 14.10.2025 subject to last and final opportunity, 18.10.2025 with no further opportunity, 29.10.2025 with no further opportunity, 01.11.2025 subject to cost of Rs.500/- with no further opportunity, 10.11.2025 subject to last and final opportunity, 13.11.2025 with no further opportunity, 14.11.2025 previous cost of Rs.200/- not deposited and last and final opportunity. Yet, plaintiffs failed to lead evidence to prove their case. Consequentially, vide order dated 17.11.2025, after grant of all the aforesaid opportunities, including 5 last and final opportunities, evidence of the plaintiffs was closed by order.

16. As noted above, the said order dated 17.11.2025 was challenged by the plaintiffs before this Court in CR-8971-2025; which came to be dismissed vide order dated 04.12.2025 (Annexure P-8).

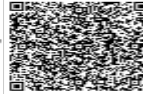
17. It is at this stage, in order to obfuscate the due process of law that the plaintiffs had moved instant application dated 8.1.2026, seeking framing of issue to the effect that "*Whether Smt. Jagdish Kaur executed the Will dated 30.05.2016 registered on 06.06.2016? OPD*" Firstly, issues no.3 and 14 have already been framed in respect of the Will dated 30.5.2016. Furthermore, it is the plaintiffs were seeking a declaration that the said Will is a forged and fabricated document; therefore the defendant cannot be called upon to prove the case of the plaintiffs. Even further, after closure of their evidence by order, after availing 20



opportunities including 5 last opportunities, plaintiff cannot be permitted to fill the lacuna in their case, and are estopped from claiming any equity in the name of substantive rights. Moreover, plaintiffs cannot be permitted to shift reverse onus upon the defendant.

18. The impugned order dated 27.01.2026 (Annexure P-10), cannot be sustained also for the reason that the learned Civil Judge, while permitting framing of additional issue, has further permitted that *“In the interest of justice one absolute opportunity is given to the parties to adduce their evidence on the additional issue.”* The said direction amounts to overreach of the order dated 04.12.2025; whereby Coordinate Bench has observed that the matter was adjourned as many as 34 times before passing of impugned order and has upheld closure of the plaintiffs’ evidence by order. The relevant observation in para 6 of the order dated 04.12.2025 read as follows: -

“6. Perusal of order-sheets goes to show that petitioner/plaintiff is to be blamed for present situation. Petitioner/plaintiff has been granted due opportunities by Court and despite giving 5 last final opportunities, petitioner/plaintiff has not bothered to conclude her evidence and has failed to pay cost of Rs.200/- and Rs.500/- imposed by Court of first instance on two different occasions. The conduct of petitioner/plaintiff, therefore, does not merit any relief to her. A party to lis cannot claim unfettered right to lead evidence at his own convenience and at the cost of other side. A party after availing 20 opportunities including 5 last final opportunities is estopped from claiming any equity in his favour in the name of substantive rights. It is foremost duty of



petitioner/plaintiff to protect his substantive rights by pleading and leading evidence in accordance with law. On one hand delay in deciding cases before the Courts is of grave concern, on the other hand, parties and their counsels are not even bothered by last opportunities granted to them by the Courts. In the present case also it is petitioner/plaintiff who herself is at fault and for her fault she cannot put defendant/respondents to inconvenience of trial by allowing another opportunity to lead evidence as she likes without compensating the other side.”

19. In the present scenario, reference is made to the judgment passed by this Court in **Kuljeet Singh v. Kulwinder Kaur (P&H) : Law Finder Doc Id # 2058641**; wherein it is held as under: -

“Application for framing additional issues - Application bereft of any details as to what evidence the petitioner wishes to lead which could not have been led in the event of non-framing of the additional issues - Appears to have been filed only to fill up the lacunae in the case.”

The relevant paras of the said judgment are as under:-

“11. There can be no quarrel with the law laid down in the judgments relied upon by the learned counsel for the plaintiff-petitioner. It is trite that additional issues can be framed at any point of time. However, in the present case the issues were initially framed on 04.08.2014 and thereafter re-framed on 30.05.2016. At both times the plaintiff-petitioner did not claim any further issues. The controversy in the present case has always been, which both the parties were aware of, as to whether there was any oral agreement to sell. Further, both the parties were aware of the fact that defendant-respondent



No.1 had claimed to be a bonafide purchaser by leading evidence on issue Nos.1 and 6. As such, all evidence as available would have been led by both the parties.

12. Learned counsel for the plaintiff-petitioner has also not been able to show as to what additional evidence he would lead in the event of the two additional issues being framed. A perusal of the application for framing of additional issues shows that the same is also bereft of any details as to what evidence the plaintiff-petitioner wishes to lead which could not have been led in the event of non-framing of the additional issues.”

20. Reference is also made to another judgment passed by this Court in **Smt. Kamla v. Bhoop Singh (P&H) : Law Finder Doc Id # 207716**; wherein it is held as under:-

“Civil Procedure Code, Order 14 Rules 1 and 2, Order 18 Rule 17 - Issues - Additional evidence - Application for framing additional issue and for additional evidence filed at the arguments stage after six years of framing of issues and after two years of closure of evidence after availing 10 effective opportunities - At the time of framing of issues, it was specifically recorded that, no other issue was claimed by any of the parties and if there is any, has been waived by them - No explanation for such a long delay - Applications held rightly dismissed by the trial Court - Revision dismissed.

21. Again in **Sanjoy Mitra v. Bhupendra Nath Bhattacharjee, (Gauhati) : Law Finder Doc Id # 121231**; it is held that *“Non framing of issues not fatal if both the parties so to trial fully knowing each other's case.”*



22. Rajasthan High Court in **Abdul Rehman v. Rameshwar Dayal**

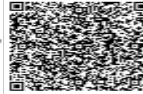
Prasadilal, (Rajasthan) : Law Finder Doc Id # 121241; held as under:-

“A. Civil Procedure Code, 1908, Order 14, Rules 1 and 2 - Non-framing of issues - Both the parties alive to the issue - Both have led evidence therefore - Based on their evidence, Court Concluded that promissory note was executed by defendant - Non-framing of specific issue on the point - Appellant not prejudiced thereby - Held, non framing of specific issue has lost its importance as parties were alive to it and led specific evidence on the issue.”

23. The judgments relied upon by learned Senior Counsel for the respondents/plaintiffs are distinguishable on facts and law as in the said cases, evidence of the plaintiffs had not been closed by order.

24. I also draw support from the judgment of this Court passed in **Swaran Singh v. Balwinder Singh (Punjab and Haryana) : Law Finder Doc Id # 636972**; wherein it is held as under:-

“Civil Procedure Code, 1908, Order 14 - Issues - Recasting of issues - Suit for declaration - Both the parties concluded their evidence - Case was for final adjudication when application was moved by defendants for recasting of issues, which was dismissed - Held, that the request for recasting and re-framing of issues was neither warranted nor merited in the given circumstances and on the face of the pleadings of the parties - Issues covering the rival claims of the parties were already there - Trial Court had rightly rejected the defendant's prayer to recast the issues, so that they may not prolong the suit further by seeking opportunity to produce evidence - Revision petition dismissed.”



The relevant para of the said judgment is as under:-

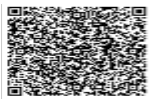
“5. There is no dispute about the law. However, when the request for recasting and reframing of the issues is neither warranted nor merited in the given circumstances and in the interface of the pleadings of the parties and when issues covering the rival claims of the parties are already there, the Court has rightly not fallen prey to the nuances of the petitioners-defendants of a prayer to recast the issues, so that they may prolong it further by seeking opportunity to produce evidence.”

25. Even in case of **Paramjit Kaur v. Surinder Singh (Punjab And Haryana) : Law Finder Doc Id # 353630**; it is held as under:-

“Civil Procedure Code, 1908, Order 14 Rules 1, 2, 3 and 5 - Framing of additional issue - Though, ordinarily, the Court is required to frame issues which may arise on the basis of pleadings of the parties - However, where both the sides had concluded their evidence and knew about the case of each other very well while leading the evidence, it can not be said that the application filed at the belated stage of hearing of arguments for framing additional issues, was a bona fide - Revision petition dismissed.”

26. In **Smt. Kamla v. Bhoop Singh (P&H) : Law Finder Doc Id # 207716**; it is held that: -

“Civil Procedure Code, Order 14 Rules 1 and 2, Order 18 Rule 17 - Issues - Additional evidence - Application for framing additional issue and for additional evidence filed at the arguments stage after six years of framing of issues and after two years of closure of evidence after availing 10



effective opportunities - At the time of framing of issues, it was specifically recorded that, no other issue was claimed by any of the parties and if there is any, has been waived by them - No explanation for such a long delay - Applications held rightly dismissed by the trial Court - Revision dismissed.”

27. In view of the above, present petition is **allowed**; and impugned order dated 27.01.2026 (Annexure P-10) is set aside.
28. Pending application(s) if any also stand(s) disposed of.

27.03.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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