



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 25.03.2026

1. CR-2193-2019 (O&M)

Joginder Singh and another

...Petitioner(s)

Vs.

Hari Singh and others

...Respondent(s)

AND

2. CR-2220-2019 (O&M)

Joginder Singh and another

...Petitioner(s)

Vs.

Hari Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abhiraj Singh Baweja, Advocate and
Mr. Mehtab Singh, Advocate for the petitioners
in both cases.

Mr. Amrik Singh, Advocate for respondent No.1.

Dr. Sumati Jund, Advocate and
Mr. Rahul Saini, Advocate
for respondents No. 2, 4, 7 to 12.

NIDHI GUPTA, J.

CR-2193-2019 (O&M)

Present Civil Revision Petition under Article 227 of the
Constitution of India has been filed by the petitioners/plaintiffs for
setting aside of the order 20.12.2018 (Annexure P-3) passed by learned
Civil Judge (Junior Division) Rupnagar in Civil Suit No. 59484 of 2013;



whereby application filed by the petitioners for allowing Handwriting Expert to take the photographs of signature of Sharan Kaur from the Will dated 03.05.2000 and to compare the same with Sale Deed dated 07.10.1968; and to take photographs of the signature of Lambardar Sadhu Singh on the Will dated 03.05.2000 and to compare the same with the application lying in the office of Deputy Commissioner, Rupnagar, has been dismissed.

CR-2220-2019 (O&M)

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the petitioners/plaintiffs for setting aside of the order 07.03.2019 (Annexure P-4) passed by learned Civil Judge (Junior Division) Rupnagar in Civil Suit No. 59484 of 2013; whereby application filed by the petitioners for framing of additional issue, has been dismissed.

2. Both the above said Civil Revision Petitions are being disposed of by this common order as both emanate from the same Civil Suit No. 59484 of 2013 filed by the petitioners; are between the same parties; and facts and issues involved in both the Revision Petitions are identical. For the sake of convenience, facts are being drawn from **CR-2193-2019** titled as ***“Joginder Singh and another vs. Hari Singh and others”***.

3. It is *inter alia* submitted by learned counsel for the petitioner that Sharan Kaur was the owner of the suit land. Sharan Kaur died intestate in the year 2002. After her death, her 2 legal representatives



being Raj Kaur and Hari Singh had inherited the suit land. As such, suit land was required to be mutated in two equal shares in favour of both the above said legal representatives. However, Hari Singh/respondent No.1 had got the mutation sanctioned only in his favour. Raj Kaur died in the year 2004. Consequentially, petitioners and performa respondents, being the legal representatives of Raj Kaur, had filed present suit for declaration to the effect that plaintiffs and performa respondents are owners in possession to the extent of 1/2 share in the suit land measuring 18K 1M as described in the plaint.

4. In the written statement, respondent No.1 had taken a plea that there is a Will dated 03.05.2000 executed by Sharan Kaur in favour of respondent No.1/Hari Singh. Accordingly, petitioners had moved present application for allowing the petitioners to compare the signature of testator Sharan Kaur as well as Sadhu Singh Lamberdar on the Will through Handwriting Expert. However, vide the impugned order dated 20.12.2018 (Annexure P-3 in CR-2193-2019), the said application of the petitioners has been dismissed.

5. Petitioners had also moved an application for framing of additional issue with respect to the Will to the effect that "*Whether Saran Kaur @ Punia executed any Will dated 03.05.2000 in favour of defendant No.1? OPD*". Learned counsel contends that as the Will dated 03.05.2000 had been propounded by defendant No.1, the onus to prove the said Will ought to have been upon the defendants. Moreover, this issue is very much necessary to be framed for the proper adjudication of



the case. Furthermore, even examination of the Handwriting Expert was very much necessary to establish the authenticity of the Will. It is argued that respondent No.1 had taken a plea that Will dated 03.05.2000 was in his favour; but he had produced the Will on record only in his defence evidence. As such, when the Will was not on record at the time of plaintiffs' evidence and respondent No.1 was in possession of the said Will, then how could the petitioners have got compared the handwriting from the Handwriting Expert in the plaintiffs' evidence. It is argued that Will could only be compared after its production on record by the defendants. However, the learned Trial Court has failed to appreciate these aspects of the matter. Thus, impugned orders have been passed without proper application of mind. Therefore, impugned orders are not sustainable and deserve to be set aside.

6. *Per contra*, learned counsel for respondent No. 1 vehemently opposes submissions made on behalf of the petitioners and submits that the applications have been filed by the petitioners at a highly belated stage. The Civil Suit is of the year 2013; whereas applications have been moved in the year 2018, after closure of evidence of the defendants. It is accordingly prayed that the impugned orders suffer from no error and the present Revision Petitions be dismissed.

7. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find merit in the submissions advanced on behalf of Id. counsel for respondent No.1.



8. The petitioners and performa respondents have filed Civil Suit No. 59484 of 2013 seeking declaration that plaintiffs and performa respondents are owners in possession to the extent of 1/2 share in the suit land measuring 18K 1M, which was previously in the ownership of Sharan Kaur. The record reveals that Issues in the suit were framed vide order dated 05.10.2015; plaintiffs' evidence was closed on 24.05.2017; and defendants' evidence was also closed on 22.10.2018. It is at this stage, that the petitioners moved the instant application dated 13.03.2018 for framing of additional issue; and application dated 15.11.2018 for allowing Handwriting Expert to examine signatures of Sharan Kaur and Sadhu Singh, Lamberdar. Respondents had resisted the applications by filing 2 separate replies dated 26.11.2018 to the aforesaid applications of the petitioners. Vide impugned order dated 20.12.2018 (Annexure P-3 in CR-2193-2019), application for examining Handwriting Expert in rebuttal evidence was dismissed; and vide impugned order dated 17.03.2019 (Annexure P-4 in CR-2220-2019), application filed by the petitioners for framing of additional issue was dismissed.

9. From the above facts, it is clear that applications have been moved by the petitioners at fag end of the trial. As admitted by learned counsel for the petitioners, Will dated 03.05.2000 had been duly mentioned by the respondent No.1 in his written statement to the suit. On a Court query, learned counsel for the petitioners has admitted that in his replication to the suit, petitioner had taken objection that the said



Will is a forged and fabricated document. Accordingly, while framing issues vide order dated 05.10.2015, learned Trial Court had duly framed proper issues, which are as under: -

“1. Whether the plaintiff and defendant 2 to 12 are owners and in possession the land in dispute to the extent of ½ share? OPP

2 Whether the will dated 3.5.2000 executed by Saran Kaur in favour of defendant no.1 is wrong, forged and fabricated procured by defendant no.1 in connivance by witnesses? OPP

3. Whether the plaintiff is entitled to consequential relief of permanent injunction as prayed for? OPP

4. Whether the suit is not maintainable? OPD

5. Relief.”

10. A perusal of the above issues framed by learned Trial Court shows that issue No.2 has been duly framed with respect to the Will dated 03.05.2000. Needless to say, whether Will is a forged and fabricated document, was required to be proved by the petitioners in their evidence in affirmative as it was the plea of the petitioners in their replication that the said Will was forged and fabricated. However, no such evidence in affirmative was led by the petitioners. It is only in evidence in rebuttal that the petitioners have sought to examine a Handwriting Expert to compare the standard signatures of testator and Sadhu Singh, Lamberdar with the signatures upon the Will. This cannot be permitted in evidence in rebuttal. When the onus is upon the petitioners in respect of issue No. 2, they were required to lead evidence in affirmative on the said issue. Moreover, petitioners have not reserved



right to lead evidence in rebuttal at the time of concluding their evidence.

11. Even the contention of the petitioners that issues were not properly framed, cannot be entertained at this stage as issues were framed as far back as vide order dated 05.10.2015. At that stage, no objection was raised by the petitioners. Moreover, petitioners now seek to frame another issue with regard to the Will. However, as pointed out above, issue no.2 regarding genuineness and execution of Will, has already been framed. At this belated stage at the fag end of the trial, petitioners cannot be permitted to raise objection to the framing of issues; or be permitted to frame additional issue.

12. I 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.”

13. 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.”

14. 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.”

15. Learned counsel for the petitioners is unable to controvert or dispute the above said factual and legal position.

16. Clearly therefore, impugned orders suffer from no error. In view of the above discussion, both Civil Revision Petitions stand **dismissed**.

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

25.03.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No