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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CR-1084-2021 (O&M)****Date of Decision : 22.01.2026**

Sinderjeet Kaur

... Petitioner

Versus

Sheo Ram and Others

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Veenus Malik, Advocate for
Mr. Ravinder Banger, Advocate for the petitioners.

Mr. Bhag Singh, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 08.04.2021 whereby the application filed by the plaintiff-petitioner herein for additional evidence has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for declaration with consequential relief of permanent injunction. The challenge in the suit was to the Will dated 28.01.2004 alleged to have been executed by Jaswant Singh in favour of defendant-respondent Nos.1 and 2 and one Shiv Ram (husband of defendant-respondent No.3. Written statement was filed wherein the stand taken was that the suit property was not ancestral in the hands of Jaswant Singh and Jaswant Singh had executed and got the Will dated 28.01.2004 registered by appearing before the Sub Registrar, Thanesar in favour of his three sons in the presence

of the witnesses.

3. In the plaint the challenge was laid to the Will on the ground that Jaswant Singh was not competent to execute the alleged Will dated 28.01.2004 as the land was ancestral in nature hence he had no right to execute the Will. It was further challenged on the ground that Jaswant Singh was aged and an illiterate person and that defendant-respondent Nos.1 and 2 and Shiv Ram had taken undue advantage of his illiteracy and old age and that the Will was not read over to him. It was further the ground taken that Jaswant Singh was seriously ill and it was not possible for him to have visited the Tehsil Office. The challenge was also laid to the Will on the ground that there was no compliance of Sections 61 and 63 of the Indian Succession Act, 1925 and Sections 63 and 68 of the Indian Evidence Act, 1872. Further ground taken was that Jaswant Singh was not in a sound disposing mind and further that he had good relations with the plaintiff-petitioner and hence there was no reason for him to have deprived her of the property. At the time of rebuttal and arguments, an application (Annexure P-2) was filed for additional evidence wherein a completely new stand was taken that Jaswant Singh used to sign on every document and that he had never thumb marked the alleged Will and that as per law the defendant-respondents were to prove the thumb impression of Jaswant Singh on the Will however defendant-respondent No.3 had not got the alleged thumb impression compared with any other documents and therefore additional evidence was sought to be led to compare the thumb impression. Reply was filed to the said application. Vide the impugned order dated 08.04.2021, the application was dismissed. Hence, the present revision petition.

4. Learned counsel for the plaintiff-petitioner would contend that

the additional evidence became necessary as Jaswant Singh, though an illiterate person, however, he used to sign and never append his thumb impression. It is further contended that there are a lot of documents on which he had signed which are now sought to be compared.

5. Per contra the learned counsel for the defendant-respondents would contend that the present application has been filed only to fill in the lacunae in the case. Having failed to lead the evidence in the affirmative, the present application has been filed at the stage of rebuttal and arguments.

6. Heard.

7. A perusal of the plaint and the replication reveal that it was never the stand taken that Jaswant Singh never used to append his thumb impression and used to sign each and every document. As noticed above, the grounds on which the Will has been challenged are totally different and there is not a whisper in the plaint that Jaswant Singh never used to thumb mark the documents. Even otherwise, the plaintiff-petitioner had approached the Court challenging the Will and issue No.1 framed was "*Whether the plaintiff is entitled to a decree for declaration as prayed for ? OPP*". Hence, the onus was on the plaintiff-petitioner to prove in the affirmative that the Will was forged and fabricated. It is not the case where the plaintiff-petitioner was taken by surprise. She was well aware of her case and ought to have led the evidence in the affirmative. Even in the application there is not a word that the documents have now come to her knowledge and could not be produced on record at an earlier point of time despite due diligence. Infact, the only reason given is that it was incumbent on defendant No.3 to have proved the thumb impression and since he had failed to do so, the comparison was necessary.

The present application is nothing but an attempt to fill in the lacuna, which

cannot be permitted in law.

8. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

22.01.2026
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO