



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

CR-9480-2025

DECIDED ON: 08.01.2026

VINOD @ VINOD KUMAR

.....PETITIONER

VERSUS

VIJAY SINGH @ VIJAY PAL SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Sourav Bhatia, Advocate and
Mr. Vikas Singh Chawra, Advocate
for the petitioner.

MANDEEP PANNU, J (ORAL)

1. The present Civil Revision Petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India for setting aside the order dated 26.11.2025 passed by the learned Civil Judge (Junior Division), Pataudi, whereby the application moved by the petitioner–plaintiff for framing of an additional issue with regard to the Will dated 16.08.1978 propounded by defendants No.1 to 4 has been dismissed.

2. The petitioner–plaintiff has filed a suit for declaration with consequential relief of permanent injunction claiming ownership over the suit property on the basis of natural inheritance from Shanti Devi. In the written statement filed by defendants No.1 to 4, a specific plea has been taken that Shanti Devi had executed a Will dated 16.08.1978 in favour of her brothers, namely the defendants, and on the strength of the said Will the claim of natural succession set up by the plaintiff has been denied. The

execution, validity and effect of the said Will have been specifically pleaded and relied upon by the defendants as a complete answer to the plaintiff's claim of inheritance.

3. Issues were framed by the trial Court, including Issue No.1 as to whether the plaintiff is entitled to the declaration as prayed for. However, no specific issue was framed with regard to the Will dated 16.08.1978 propounded by defendants No.1 to 4. After the parties led their evidence and the suit reached the stage of rebuttal evidence, the plaintiff moved an application seeking framing of an additional issue regarding the validity and effect of the Will relied upon by the defendants. The said application has been dismissed by the trial Court primarily on the reasoning that since it is the defendants who are propounding the Will, it was for them to seek framing of such an issue and that the plaintiff has no right to ask for framing of an issue on the basis of the Will set up by the defendants.

4. Having regard to the nature of the controversy involved and the limited question of law arising for consideration, this Court is of the view that no notice is required to be issued to the respondents and the matter can be decided on the basis of the record available before the Court.

5. I have heard learned counsel for the petitioner. The approach adopted by the trial Court cannot be sustained in law. A Will propounded by a defendant, which is specifically pleaded and relied upon to defeat the plaintiff's claim of natural inheritance, constitutes a distinct and material proposition of fact and law within the meaning of Order XIV Rule 1 CPC. The validity, execution and binding nature of such a Will is not a collateral or incidental aspect but goes to the very root of the controversy between the parties. Once a Will is pleaded by one party and denied by the other, the

Court is under a statutory obligation to frame a specific issue thereon so as to enable proper adjudication of the *lis*.

6. Issue No.1, namely whether the plaintiff is entitled to the declaration as prayed for, is a general issue and cannot be treated as a substitute for a specific issue on the Will. The proof of a Will is governed by special statutory requirements under the Indian Succession Act and the Evidence Act, and the burden to prove the Will lies squarely on its propounder. In the absence of a specific issue, the trial on the question of the Will would remain procedurally deficient and any final adjudication would be exposed to challenge on the ground of material irregularity in the conduct of the trial.

7. The reasoning of the trial Court that only the defendants could have sought framing of an issue on the Will is legally untenable. Issues are framed by the Court on the basis of pleadings and not at the discretion of one party or the other. Any party who is affected by a plea raised in the pleadings is entitled to seek framing of an appropriate issue. The plaintiff, whose claim of inheritance stands directly negated by the Will propounded by the defendants, is not only entitled but justified in seeking framing of an issue on that aspect. The stage of the proceedings is also no impediment, as Order XIV Rule 5 CPC expressly empowers the Court to amend or frame additional issues at any stage before the passing of the decree, if such issues are necessary for determining the real controversy between the parties.

8. The impugned order, therefore, suffers from a material error of jurisdiction inasmuch as the trial Court has failed to exercise the jurisdiction vested in it to frame a necessary and material issue, and has proceeded on an

erroneous understanding of law in declining the request solely on the ground that the defendants had not pressed for such an issue.

9. Consequently, the present revision petition is allowed. The order dated 26.11.2025 passed by the learned Civil Judge (Junior Division), Pataudi is set aside. The trial Court is directed to frame an additional issue with regard to the validity, execution and binding effect of the Will dated 16.08.1978 propounded by defendants No.1 to 4 and thereafter proceed with the suit in accordance with law.

10. All pending miscellaneous application(s), if any, stands disposed of.

08.01.2026

Poonam Negi

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes