



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(281)

CR No.2669 of 2025 (O&M)
Date of Decision: 08.10.2025

Mastan Singh and another

...Petitioners

VS

Jaspal Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sunny K. Singla, Advocate
for the petitioners.

Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for respondents No.1, 2 and 5.

Mr. S.S. Swaich, Advocate
Ms. Navjot Kaur, Advocate &
Ms. Ishani Goyal, Advocate
for respondents No.3, 4 and 6.

None for respondents No.7 to 9.

VIKRAM AGGARWAL, J (ORAL)

The present petition, preferred under Article 227 of the Constitution of India, assails the order dated 11.04.2025 (Annexure P-6) passed by the Court of Civil Judge (Jr. Division), Amloh (District Fatehgarh Sahib) vide which the application (Annexure P-5) filed by the petitioner/plaintiffs for framing of additional issues was dismissed.

2. The petitioners/plaintiffs instituted a suit (Annexure-P-1) for separate possession of 2/3rd share by way of partition of a residential house (fully described in the plaint) constructed on land measuring 9-1/2 Marlas and situated within the revenue estate of village Dadheri, Tehsil Amloh, District Fatehgarh Sahib. Consequential relief of permanent injunction was also sought. The petitioners/plaintiffs are sons of late Sh. Inderjit Singh

whereas the respondents/defendants are the widow, other sons and daughters of the said Inderjit Singh. In the suit, apart from other facts, it was pleaded that Inderjit Singh had executed a registered Will dated 07.01.1987 in favour of petitioner-plaintiff No.1 and defendants No.1 and 2. It was also claimed that a transfer deed dated 27.07.2011 had been executed by defendant No.2 in favour of petitioner-plaintiff No.2.

3. The suit was opposed by way of a written statement filed by respondent-defendant No.1 (Annexure P-2) wherein the execution of the aforesaid documents was denied, apart from denial of other averments. Replication (Annexure P-3) was filed. Issues were framed vide order dated 19.07.2017 (Annexure P-4).

4. The petitioners-plaintiffs filed an application (Annexure P-5) for framing of additional issues as regards execution of Will dated 07.01.1987 and transfer deed dated 27.07.2011. This application was opposed by the respondents-defendants. By way of the impugned order, the said application was dismissed, leading to the filing of the instant revision petition.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioners-plaintiffs has submitted that the impugned order is not sustainable. He submits that though three suits as regards the property in question are being heard by the trial Court and the High Court had upheld the order of the trial Court that the said suits would be decided together, issues as regards the Will and the transfer deed would be required to be framed in the instant case also. Learned counsel further submits that evidence qua these two documents has already been led by both parties and no further evidence is to be led. Learned counsel further submits

that additional issues can be framed at any stage and the observation of the trial Court that the application had been filed by the petitioners-plaintiffs to delay the decision of the suit is erroneous. Learned counsel submits that non-framing of additional issues may lead to unnecessary complications at a later stage since all three suits are to be decided separately, though on the same date.

7. On the other hand, learned counsel for the respondents-defendants has submitted that there is no illegality in the impugned order. It has been submitted that issues as regards the Will and transfer deed have duly been framed in the other suit and further, issue no.1 in the present suit also covers the issue of the Will and the transfer deed. Therefore, there would be no requirement of framing additional issues at this stage. Learned counsel submits that in case additional issues are ordered to be framed at this belated stage, the respondents-defendants may have to lead evidence to rebut the evidence led by the petitioners-plaintiffs which will unnecessarily delay the decision of the case. It has been submitted that the suit was filed as far back as on 27.04.2013 and the application for framing of additional issues was filed in April 2025 i.e., 12 years after the filing of the suit and 08 years after the framing of the issues. Learned counsel submits that under the circumstances, no interference is called for in the impugned order.

8. I have considered the submissions made by learned counsel for the parties.

9. Concededly, three suits are pending before the trial Court. Apart from other issues, the issue of Will dated 07.01.1987 and transfer deed dated 27.07.2011 also arises.

10. Earlier, vide order dated 07.02.2020 passed by the Court of Civil Judge (Jr. Division), Amloh, in an application under Section 10 CPC, it had been ordered that since some points of determination in the suits were common, the suits would be decided together on the same day after hearing final arguments in both cases. This order was assailed by way of CR No. 1836 of 2021. The said revision petition was dismissed vide order dated 22.02.2022, while agreeing with the order passed by the trial Court.

11. Coming back to the merits of the present case, the suit for separate possession was instituted by the petitioners-plaintiffs on 27.04.2013. Issues were framed on 19.07.2017. Issue No.1 reads as under:-

“1. Whether plaintiffs are entitled for separate possession of 2/3 share by way of partition of the residential house shown as red colour in the site plan constructed on land measuring 0K-9 ½ M comprised in Khewat No. 564, Khatoni No. 584, Rect. No.39, Killa No. 19/1/1/1 as per copy of Jamabandi for the year 2007-2008, situated within the revenue estate of village Dadheri, Tehsil Amloh, District Fatehgarh Sahib.”

12. Concededly, both sides have concluded their evidence and the matter is fixed for arguments.

13. First of all, it has already been ordered that all suits shall be heard and decided on the same day with a view to avoid contradictory findings. It is also a conceded position that issues with regard to the Will dated 07.01.1987 and transfer deed dated 27.07.2011 already stand framed in Civil Suit No.1844 of 2012, titled as Balwinder Kaur etc., Vs. Harbans Kaur etc., and Civil Suit No. 1448 of 2013, titled as Harbans Kaur Vs. Amrik Singh. Still further, issue No.1 framed in the present case duly covers the issue of Will and transfer deed. To arrive at the conclusion as to whether the petitioners-plaintiffs would be entitled to a decree for separate

possession, the trial Court would have to record a finding as regards ownership also which has been claimed in the plaint and, therefore, findings on the issue of Will and transfer deed would have to be recorded.

14. No doubt, additional issues can be framed at any stage. However, ordering framing of additional issues at the fag end may create unnecessary complications more so when the said issues have already been framed in the cases which have to be decided together and further, issue No.1 in the present case also covers the question of execution of the Will dated 07.01.1987 and transfer deed dated 27.07.2011.

15. That being so, I do not find any illegality in the impugned order warranting interference.

16. Consequently, the revision petition is found to be devoid of merit and is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

October 08, 2025

Rekha

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