

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****CR-5021-2025 (O&M)****Date of decision: 31.07.2025****Resham Singh****...Petitioner(s)****Vs.****Kulwant Kaur and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. H.K.Aurora, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the plaintiff for setting aside the impugned order dated 1.7.2025 (Annexure P-1) passed by Ld.Civil Judge (Senior Division) NRI Court, Jalandhar dismissing the application of the petitioner, and not permitting the petitioner-plaintiff to lead and conclude his entire evidence to prove the Will dated 24.4.1991 (Annexure P-2) executed in California and nature of the suit property in view of the facts and circumstances of the case.

2. Brief facts of the case are that the petitioner has filed a suit dated nil (Annexure P-3) for declaration and permanent injunction to the effect that he and defendant No.2 are co-owners in joint possession of ancestral property inherited from their father to the extent of share as per Will dated 24.04.1991 (Annexure P-2).

3. The defendants had appeared and filed written statement dated nil (Annexure P-4). Issues were framed in the matter on 04.01.2020. It is the case of the petitioner that due to outbreak of Covid-19, all the



Courts were closed and, therefore, hearing could not be resumed till 11.01.2022.

4. The petitioner resides in abroad. Accordingly, the petitioner had moved an application (Annexure P-19) on 01.07.2025 to adjourn the matter on the ground that he could not secure a flight seat for 01.07.2025 and he will secure the same on the next date in order to depose himself as a witness and tender his affidavit in the form of evidence. He further stated that Kanungo has been served twice, so he is also required to be served by issuing summons or warrants. However, vide the impugned order dated 01.07.2025 (Annexure P-1), the said application of the petitioner has been dismissed. Hence, present Civil Revision Petition.

5. It is *inter alia* submitted by learned counsel for the petitioner that the application of the petitioner seeking grant of adjournment has been erroneously rejected and evidence of the petitioner has been wrongly closed by the learned Civil Court vide the impugned order. It is submitted that the learned Civil Court has failed to appreciate that petitioner is about 75 years old and is living in England. The petitioner is making earnest efforts to lead his entire evidence in accordance with law. The petitioner has moved several applications, which have been allowed by the learned Civil Court. Learned trial Court ought to have appreciated that the original Will was lost. Therefore, factum of Will can only be proved the petitioner himself and not by his Attorney Sarabjit Singh PW1.

6. It is submitted that as far as Kanungo is concerned, the petitioner has already examined Patwari as PW2, who has proved the



available revenue record regarding the suit property and it is for the Kanungo to come to the Court and collect the said revenue record from the Court and, thereafter based on that, he has to check the entire revenue record to prepare and produce the excerpt report regarding the nature of the suit property but he has not come to the Court so far in spite of the fact that he has been served twice. Thus, bailable warrants ought to have been issued to him. The petitioner has already deposited Rs.3,000/- in compliance of the order of the Id. Civil Court.

7. Therefore, in the facts and circumstances of the case, the Id. Civil Court ought to have granted adjournment in order to give effective opportunity to the petitioner and to secure the ends of justice.

8. Learned counsel for the petitioner further informs that the defendant-respondent No.1 has closed his evidence on 8.7.2025 and now the case is fixed for rebuttal evidence and arguments on 29.7.2025.

9. It is accordingly prayed the present Civil Revision Petition be allowed; and impugned order dated 01.07.2025 (Annexure P-1) be set aside.

10. No other argument is raised on behalf of the petitioner/plaintiff.

11. I have heard learned counsel and perused the case file in detail.

12. I find no merit in the submissions made on behalf of the petitioner. Admittedly, suit was filed by the petitioner as far back as on 18.10.2018. Admittedly, issues were framed in this case as far back as on



04.01.2020. Even taking into account the break in trial due to onset of Covid -19, however, as per own admission of the petitioner, Court work had resumed on 11.01.2022; as also evident from zimni order dated 11.01.2022 (Annexure P-6). Thus, no cogent reason has been given by the petitioner to explain as to why in the period from 11.01.2022 till date i.e. in a period of 3½ years, petitioner has been unable to conclude his evidence. It has been submitted by the petitioner that in the interregnum several applications were filed due to which evidence of the petitioner could not be concluded. Even the said argument is misleading as, as per the petitioner, the Will in question was lost. However, the application (Annexure P-14) to lead secondary evidence was filed by the petitioner only on 20.01.2025. The said application was allowed by the learned Civil Judge vide order dated 20.01.2025 (Annexure P-16). Petitioner has also moved another application of even date 20.01.2025 (Annexure P-15) for directing Special Kanungo for preparing the excerpts of the property in dispute and submit before the Court. Even the said application was allowed vide order dated 20.01.2025 (Annexure P-17). In zimni order dated 03.02.2025 (Annexure P-18), it is recorded that Halqa Patwari PW2 was completely examined on the said date. The case was adjourned to 11.02.2025 for remaining PWs subject to last opportunity. On 11.02.2025 (Annexure P-18A), no PW was present, and the matter was adjourned to 27.02.2025. However, the situation was same on 27.02.2025, 12.03.2025, 01.04.2025, and 02.05.2025, (Annexure P-18 colly.). On 02.05.2025 learned trial court recorded that *"it is made clear that it shall be last and final opportunity for plaintiff to conclude its*



evidence and no further adjournment shall be granted for the aforesaid purpose.” Thereafter, petitioner had moved present application dated 01.07.2025 (Annexure P-19) for adjournment, which has been dismissed by the impugned order.

13. From the above facts, it is clear that petitioner has been granted sufficient opportunities for concluding his evidence. Yet, he has failed to do so. As per the record, prior to filing of the present application, 26-27 effective opportunities have been granted to the petitioner, but no evidence was led by the petitioner on 04.02.2020, 11.01.2021, 22.02.2021, 21.10.2021, 24.11.2021, 23.03.2022, 09.05.2022 even despite grant of several last opportunities. Even further on 03.02.2025 as noted above, 5 opportunities have been granted to the petitioner on 11.02.2025, 27.02.2025, 12.03.2025, 01.04.2025 and 02.05.2025. Needless to say, from 02.05.2025, petitioner had ample opportunity to book his flight for 01.07.2025, but he failed to do so. It has been submitted by the petitioner that notice to Kanungo is required to be issued for preparation of excerpts report. However, as per order dated 20.01.2025, petitioner had to pay statutory fee of Rs.3,000/- and make available the relevant record before the concerned authority for preparation of the said excerpt report. However, both the above said requirements have not been complied with by the petitioner.

14. The above conduct of the petitioner shows that the petitioner has adopted an utterly casual attitude in the pursuit of the present litigation. It is to be appreciated that very valuable public time of the Court



has been expended in affording 26-27 opportunities to the petitioner in the interest of justice. However, the same cannot be misused to endlessly drag the matter to the unfair advantage or disadvantage of either party.

15. It is the bounden duty of every litigant to pursue his case diligently; and it is also the bounden duty of this Court to ensure that justice inures to both parties concerned. With passage of time, rights of the parties get crystallised. It is the beholden obligation of not just this Court but also the learned counsel/petitioner to pursue the matter diligently being of such old vintage. However, the above facts evidence that the matter has been pursued with utmost casualness.

16. In these circumstances, no ground is made out to interfere in the impugned order.

17. The present Civil Revision Petition is accordingly **dismissed**.

18. Pending application, if any, stands disposed of.

31.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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