



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

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CR No.1059 of 2025 (O&M)

Date of Decision :23.07.2025

Balkar Singh and another

.....Petitioners

Versus

Narinder Kaur and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL

Present : Mr. Amandeep Singh Manaise, Advocate for the petitioners.

Mr. Rajeshwar Singh Thakur,
Advocate for respondent No.1.

VIKRAM AGGARWAL, J. (Oral):

The instant revision petition has been preferred under Article 227 of the Constitution of India against order dated 21.01.2025 (Annexure P-13), passed by the Court of Additional Civil Judge (Sr. Divn.), Gurdaspur, vide which the application dated 20.12.2024 (Annexure P-11) moved by the petitioners/defendants for leading additional evidence was dismissed.

2. Challenge has also been laid to the order dated 07.10.2024 (Annexure P-9) vide which permission was granted to the plaintiff/respondent No.1 to examine a fingerprint expert during rebuttal evidence.

3. A suit was filed by respondent No.1-plaintiff (Narinder Kaur) against Balkar Singh and others for declaration to the effect that she was a co sharer/co-owner in possession of the suit land (fully described in plaint) situated at village Bishankot, Tehsil Kalanaur, District Gurdaspur, out of the estate left by one Gurmej Singh. She also sought a declaration to the effect



that the Will dated 23.10.2015 alleged to have been executed by Gurmej Singh in favour of Balkar Singh, Avtar Singh and Balwinder Singh was a forged and fabricated document.

4. The suit was opposed by way of separate written statements (one written statement by defendants No.1, 2, 3 and 7 and a separate written statement by defendants No.4 to 6) (Annexure P-2 and P-3, respectively).

5. On 16.05.2023, two additional issues viz additional issue No.5-A and 5-B were framed;

Issue No.5(A):- As to whether Gurmej Singh deceased had executed a Will dated 23.10.2015 in favour of defendants No.1 to 3? OPD.

Issue No. 5(B):- Whether the Will dated 23.10.2015 was a forged and fabricated document? OPP.

6. It appears that both sides led their evidence in the affirmative. In rebuttal evidence, the plaintiff examined fingerprint expert namely Kranti K. Sharma who submitted his report (Annexure P-10). As per the report, the questioned thumb impression was not clear with respect to the standard thumb impression, as a result of which, no opinion could be given.

7. Faced with the situation, an application (Annexure-P11) was moved by the present petitioner for leading additional evidence by examining a handwriting and fingerprint Expert. The said application was opposed by way of reply (Annexure P-12) and was dismissed by way of impugned order dated 21.01.2025, leading to the filing of the instant revision petition.

8. I have heard learned counsel for the parties.

9. Learned counsel for the petitioner has submitted that the orders



under challenge are not sustainable. He submits that there was no occasion for the trial Court to grant permission to the plaintiff to examine an expert in rebuttal evidence, and, therefore, the order dated 07.10.2024 (Annexure P-9) is not sustainable. He further submits that even the dismissal of the application for additional evidence moved by the petitioner vide order dated 20.12.2024 is illegal since, in view of the unclear report of the expert, it was essential to examine another expert to arrive at a just and fair decision.

10. Per contra, learned counsel for respondent No.1 submits that there is no illegality in both orders. He submits that since petitioners/defendants were the propounders of the Will, it was for them to lead evidence in the affirmative to prove the Will which was led by them. He submits that since the onus to prove that the Will was a forged and fabricated document was on the plaintiff, she moved an application for examination of an expert which was rightly allowed. He submits that as regards the application moved by the petitioners, the same was rightly dismissed, for, as submitted, the petitioners were supposed to lead evidence in affirmative to prove the execution of Will dated 23.10.2015.

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

12. In so far as the order dated 07.10.2024 is concerned, the expert was duly examined in the witness box and was cross-examined by the petitioners. Still further, the onus to prove the issue as to whether the Will dated 23.10.2015 was a forged and fabricated document was on the plaintiff and, therefore, no illegality was committed by the trial Court in submitting the



examination of the expert.

13. In so far as the application moved by the petitioners for the examination of an expert is concerned, the petitioners were supposed to prove the execution of Will as per law i.e. in terms of provisions of Section 63 of the Indian Succession Act, 1925 and Section 68 of the Indian Evidence Act, 1872. They led their evidence in the affirmative and only when the examination of the expert examined by the plaintiff concluded, they moved an application for additional evidence. In the considered opinion of this Court, the trial Court rightly rejected the said application by holding that the defendants have concluded their whole evidence by availing numerous opportunities and even the expert examined by the plaintiff had been cross-examined by the defendants. It was rightly held that if such application was to be allowed, there would be no end to the litigation.

14. I do not find any reason to interfere in the said order passed by the trial Court.

15. That being so, I do not find any merit in the instant revision petition and the same is accordingly, dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

23.07.2025

Manoj Bhutani

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