

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****CR-34-2025 (O&M)****Date of decision: 26.05.2025****Ranjit Singh****...Petitioner(s)****Vs.****General Public and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Siddharth Gupta, Advocate
for the petitioner.

*********NIDHI GUPTA, J.****CM-1780-CII-2025**

This is an application under Section 151 CPC for placing on record the true translated copies of the plaint dated 22.05.2017 as well as written statement dated 23.10.2017 as Annexures P-5 and P-6 respectively.

2. Heard.

3. Application is allowed and the above said documents are taken on record as Annexures P-5 and P-6 respectively, subject to all just exceptions. Registry is directed to tag the same at appropriate place.

CR-34-2025 (O&M)

The present civil revision petition has been filed by the petitioner/plaintiff under Article 227 of the Constitution of India for setting aside impugned order dated 29.11.2024 (Annexure P-1) passed by Ld. Judicial Magistrate First Class, Phul, District Bathinda, whereby



application dated 23.10.2024 (Annexure P-3) filed by the petitioner for framing additional issues in the suit bearing case no. **CS/164/2017** dated 22.05.2017 (Registered on 23.05.2017) titled as "**Ranjit Singh versus General Public and others**" has been dismissed.

2. Learned counsel for the petitioner *inter alia* submits that framing of additional issues regarding whether the Will No. 607 dated 25.03.2009 is a forged and fabricated document as asserted by the respondents/defendants, was crucial. It is submitted that without specific issue framed in this regard, entire controversy between the parties cannot be adjudicated. Learned counsel submitted that after framing of issues, the parties to the lis had led their evidence. The petitioner examined himself as PW1, Jagmohan Lal-attesting witness to the Will as PW2, Buta Singh Numbardar/attesting witness to the Will as PW3, Bhagwan Dass scribe of the Will as PW4. Krishan Chand as PW5, Chota Singh as PW6, Raj Kumar deed writer as PW7. Thereafter, case was fixed for the evidence of the defendants. Respondent no. 2 examined himself as DW1, Frail Singh as DW2, VB Bhatnagar Handwriting and Fingerprint Expert as DW3. Respondent no. 4 and 5 did not lead any evidence and their evidence was closed by the order of the court dated 22.08.2024. Accordingly petitioner had moved present application dated 23.10.2024 (Annexure P-3) for framing of 3 additional issues to the following effect: -

"1A- Whether the deceased Amar Nath @ Amar Singh had executed a legal and valid registered Will no. 607 dated



25.03.2009 in favour of the plaintiff and his wife namely Bimla Devi during his life time?OPP

1B - Whether Bimla Devi widow of Sh. Amar Nath @ Amar Singh had executed a legal and valid registered will No. 125 dated 28.02.2011 in favour of the plaintiff during her life time? OPP

1C- Whether the aforesaid Will No. 607 dated 25.03.2009 executed by Amar Singh @ Amar Nath is forged and fabricated? OPD”

3. However, the learned trial Court has dismissed the said application of the petitioner without properly appreciating that it is the duty of the learned trial Court to frame issues regarding all the controversial issues as depicted in the pleadings of the parties. In the present case, although the defendants had categorically denied registered Will No. 607 dated 25.03.2009, yet the learned trial Court had failed to frame above said issues at the initial stage. It is contended that the petitioner cannot be held responsible for the same, and the respondent No.2 cannot be permitted to take undue benefit of the same.

4. Learned counsel submits that it is established position in law that additional issues can be framed even at appellate stage. In the present case, the matter is still pending before the learned trial Court and therefore no prejudice will be caused to the respondents. It is submitted that fraud has been played by the defendants and therefore, the onus is upon the defendants to prove the fraud in respect of the Will. It is reiterated that framing of the proposed additional issues would



only lead to the proper adjudication of the matter once the definite finding is given regarding the validity of the Will. It is accordingly prayed that the present civil revision petition be allowed; and the impugned order be set aside.

5. No other argument has been raised by learned counsel for the petitioner.

6. Heard learned counsel for the petitioner and perused the case file in great detail.

7. I find no merit in the submissions made on behalf of the petitioner. Brief facts of the case are that the petitioner/plaintiff had filed a Civil Suit (Annexure P-5) for declaration to the effect that petitioner, on the basis of the registered Will No. 607 dated 25.03.2009, is the owner in possession of the suit land measuring 143 K 16 M; and for permanent injunction restraining the defendants No.2 to 5 from causing interference in the peaceful possession of the petitioner over the suit land. Defendants No.2 to 5 are the brothers and the sisters of the petitioner. Written statement dated 23.10.2017 (Annexure P-6) was filed by defendant No.2 *inter alia* pleading therein that the said Will is a forged, fabricated and false document and the same was not got registered and that the defendants have equal share in the property of their forefathers. Subsequently, trial commenced upon framing of following issues vide order dated 17.04.2018 (Annexure P-2): -

“1. Whether the plaintiff is entitled for relief of declaration as prayed for? OPP



2. *Whether the plaintiff is entitled for permanent injunction?*

OPD

3. *Whether the suit for plaintiff not maintainable? OPD*

4. *Whether the plaintiff is estopped from the act and conduct?OPD*

5. *Whether the plaintiff has no locus standi?OPD*

6. *Whether the plaintiff is barred for limitation? OPD*

7. *Whether is plaintiff has filed the present suit after concealing the material facts? OPD*

8. *Whether this court has no jurisdiction? OPD*

9. *Relief."*

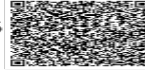
8. It is at the stage of rebuttal evidence that the petitioner filed the present application dated 23.10.2024 (Annexure P-3) praying for framing of 3 additional issues, as under: -

"1-A- Whether the deceased Amar Nath @ Amar Singh had executed a legal and valid registered Will no. 607 dated 25.03.2009 in favour of the plaintiff and his wife namely Bimla Devi during his life time?OPP

1-B - Whether Bimla Devi widow of Sh. Amar Nath @ Amar Singh had executed a legal and valid registered will No. 125 dated 28.02.2011 in favour of the plaintiff during her life time? OPP

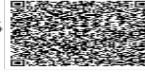
1-C- Whether the aforesaid Will No. 607 dated 25.03.2009 executed by Amar Singh @ Amar Nath is forged and fabricated? OPD"

9. Needless to say, the above application has been filed by the petitioner at a highly belated stage. To recapitulate the facts, Suit was filed by the petitioner on 22.05.2017 (Annexure P-5); written statement was filed on 23.10.2017 (Annexure P-6); replication was filed by the



petitioner on 07.12.2017; issues were framed by the learned trial Court vide order dated 17.04.2018; and petitioner closed his evidence on 14.08.2023. Thereafter, defendants also closed their evidence after examining 3 witnesses. It is when the case was fixed for rebuttal evidence, if any, and arguments that the petitioner filed the present application on 23.10.2024 i.e. 6 1/2 years from the date of framing of issues i.e. 17.04.2018. As noted above, the respondent had raised issue of fraud and forgery in his written statement dated 23.10.2017. The defendant no.2 had taken a specific plea in his written statement (Annexure P-6) that the Will in question was a forged and fabricated document. As such, the petitioner was well aware regarding the issues to be framed. In case, the petitioner wanted to prove the said Will or wanted to have positive findings in respect of the said Will, the petitioner ought to have moved application at the relevant time. Nothing is shown as to why the petitioner waited so long. In any event, no prejudice will be caused to the petitioner as the proposed issues No.1A and 1B will be covered with the findings given in respect of original issue No.1.

10. As regards proposed issue No.1C, it has been correctly reasoned and observed by the learned trial Court in the impugned order that even if the report of handwriting expert cannot be relied upon, admittedly opportunity has been granted to the petitioner to cross-examine the handwriting expert DW3 at length; and rebut the expert report. Learned trial Court has, therefore, correctly opined that "*plaintiff*



cannot be permitted to press upon framing of negative issue i.e. issue no.1C i.e. whether the aforesaid will no. 607 dated 25.03.2009 executed by Amar Nath is forged and fabricated.”

11. In view of the above, no ground to interfere in the impugned order dated 29.11.2024 (Annexure P-1) is made out.

12. The present civil revision petition, accordingly, stands **dismissed**.

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

26.05.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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