

CS No. 57014/16
Inderjit Kaur Vs. Anand Singh

18.12.2019

Present: Plaintiff no.4 in person.
Plaintiff no. 3 in person.
Shri Mohit Chaudhary and Ms. Sristi Gupta, Ld. Proxy Counsel for plaintiff no.2(b).
Shri Pradeep Purohit, Ld. Counsel for defendant nos. 1 to 4.
Shri Udaibir Singh Kochar, Ld. Counsel for defendant no.5.
Shri Praveen Kumar, Ld. Counsel for defendant no.6.

Arguments heard on the issue whether Trust is to be permitted to lead evidence in the present case or not. Also an application is filed under Section 151 CPC by counsels for plaintiff no.2(b) who sought time to argue on the application. Request is declined.

Arguments heard.

It is the case of Inderjit Kaur that in the present case, S Pratap Singh Giani Charitable Trust through Jatinder Kaur has been made a party. In the circumstances, the Trust may be permitted to lead evidence as well.

The same is objected to by counsels for plaintiff no.2(b) who submitted that the Will is a forged one and hence they may be permitted to cross-examine the witness on this Will. Further counsels raised objection to permit Trust

to lead evidence.

As far as this Will dated 05.04.2020 is concerned, there is a separate issue framed with regard to this Will on record. Further when Trust has already been impleaded as a party in the present case which has not been objected to by any of the parties and the said order has already attained finality, there is no reason to deny opportunity to lead evidence to the Trust.

As far as right of cross-examination to the plaintiff no.2(b) is concerned, it is noted that the present is a partition suit between the parties. The interest of all the parties are not adverse to each other. An opportunity to cross-examination is granted to a party whose interest is adverse to the party which is leading evidence. But in the present case, plaintiff no.2 Kulwant Singh has already admitted this Will in his replication to application filed by plaintiff no.3. Plaintiff no.2(b) is only a Successor/legal heir of Kulwant Singh. He cannot be permitted to lead evidence contrary to the admissions made by his predecessors in whose shoes he has stepped into. In the circumstances, request to cross-examine the witness on behalf of Trust is declined as it is the case of Trust that property is to devolve according to the Will dated 05.04.2012 which is already admitted by plaintiff no.2.

It is submitted by Ld. Counsel for plaintiff no.2(b) that their witness who is living in Canada would be coming to India on 10.01.2020. It is submitted that date may be given to plaintiff no.2(b) to lead evidence. Request is allowed. Evidence affidavit of plaintiff no.2(b) is already on record.

Put up for cross-examination of plaintiff no.2(b) on **13.01.2020**. Further it is apprised to all the parties that as the witness is coming from Canada, the matter shall be taken up on day to day basis till her cross-examination is completed.

Thereafter, Trust shall lead evidence.

(TWINKLE WADHWA)
ADJ-03/PHC/NEW DELHI
18.12.2019