

Naginder Gupta Vs. Anil Sood

Present: Sh. V.K. Gupta, Adv., counsel for plaintiff
Sh. A.K. Gupta, Adv., counsel for the defendant

Heard on the application moved by the plaintiff to produce and prove the original Will dated 25.8.2011.

2. The application in hand has been filed submitting that earlier the original Will was not traceable. The plaintiff only placed the photocopy of the Will, but now the original Will has been traced out, but the case of the plaintiff is fixed for rebuttal evidence. The original Will is required to be proved by way of examining one of the marginal witness of the same and it is requested that the application for additional evidence be allowed.

3. However, on the other hand, the application has been opposed submitting that the application is filed at a belated stage. The original Will was already in possession of the plaintiff, but he did not produce the same and while tendering the photocopy of the same the plaintiff has not sought the permission to prove the same by way of secondary evidence and now when the parties have already concluded their evidence the application in hand has been filed and request for dismissal of the application was made.

4. I have heard the submission of both the parties and gone through the pleadings as well as evidence led on record.

5. Before discussing the merits of this application it is required to mention here that the present suit has been filed by the plaintiff against the defendant for recovery of ₹26,00,000/- as principal amount

alongwith its interest on account that the plaintiff and his father have sold their share in the company M/s Regal Snacks Pvt. Limited to the defendant. The defendant executed the agreement dated 11.3.2010 and also paid ₹ 2,00,000/- in cash and issued four cheques two in favour of the plaintiff and two in favour of the father of the plaintiff. Out of four cheques two cheques were encashed, but remaining two cheques were dishonoured. Hence, precisely the case of the plaintiff is only recovery from the defendant. The question of the Will is even not remotely connected with the present case. The plaintiff is admittedly the son of Adarsh Gupta. The plaintiff is only required to show his locus standi to file the present suit against the defendant. He being the real son of Adarsh Gupta is itself having locus standi to file the present suit. The question of placing and proving of the Will is having no concern with the fact of the present case. Moreover, the other legal heirs of Adarsh Gupta are not party in this case. The defendant is having no concern with the proving of the Will by the plaintiff. The plaintiff in order to prove his locus standi has already placed on record the copy of the Will. Hence, there is no requirement with the plaintiff to prove the Will of his father in his favour. Moreover, there is no such issue in the present case. Hence, the application for leading additional evidence is accordingly, dismissed. To come up on 18.12.2018 for rebuttal evidence if any and in the alternate for arguments.

Pronounced in the open court
13.12.2018

'Avtar J.W.'

Next date:18.12.2018

Purpose_____

Amit Malhan
Addl. Civil Judge (Sr. Division)
Hoshiarpur (UID NO. PB0250)