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CR No.6063 of 2023

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

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Civil Revision No.6063 of 2023
Date of decision: April 22nd, 2026

Amarjit Kaur and another

.....Petitioners

Versus

Jaswant Kaur (now deceased) through her LRs and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rakesh Chopra and Mr. Sharan Chopra, Advocates
for the petitioners.

Mr. H.S. Sehgal, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 12.09.2023 passed by Civil Judge (Junior Division), Fatehgarh Sahib, as per which the petitioners-plaintiffs have been barred from leading further evidence, even though additional issues have been framed.

ARGUMENTS ON BEHALF OF THE PETITIONERS:

2. Learned counsel for the petitioners has submitted that the petitioners/plaintiffs had filed a suit for declaration claiming joint ownership and possession on the basis of a Will dated 06.12.1991 stated to have been executed by Raghbir Singh in their favour. It is submitted that in the written statement the said Will was disputed and in spite of the same, the trial Court did not frame a specific issue with respect to the said Will. It is submitted that subsequently the petitioners moved an application for framing of the additional issues with respect to the said Will as well as with respect to the



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challenge to the Mutation No.2221 which was entered without considering the validity of the said Will and the said application for framing of additional issues was allowed yet the trial Court, without any valid reason, did not permit the petitioners to lead evidence on the said additional issues framed. It is submitted that it is a matter of settled law that framing of issues is the duty of the Court and on every material aspect, the issues are required to be framed, which has not been done in the present case. It is further submitted that it is also a matter of settled law that whenever an amendment or addition in the issues is made, fresh opportunity is to be given to the parties to lead further evidence. In support of his arguments, learned counsel for the petitioners has relied upon the judgment of the coordinate Bench of this Court in the case of ***Satnam Singh Sharma Versus Tarloki Nath Kalia and others*** reported as **1974 PLR 374**.

ARGUMENTS ON BEHALF OF RESPONDENT NO.2:

3. Learned counsel for respondent No.2, on the other hand, has submitted that in the present case, the said application was moved after much delay and after the evidence had already been led and thus, the learned trial Court has rightly held that the parties should not be permitted to lead any further evidence as leading further evidence would further delay the proceedings. It is submitted that in case the petitioners are granted an opportunity to lead evidence, then equal opportunity should also be granted to respondent No.2 to lead evidence with respect to the additional issues and for the delay in moving the application, the petitioners should be burdened with heavy cost.



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REBUTTAL ON BEHALF OF PETITIONERS:

4. Learned counsel for the petitioners in rebuttal has submitted that the petitioners are ready to pay reasonable cost in the present case.

ANALYSIS AND FINDINGS

5. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that the impugned order to the extent that it does not give the right to both the parties to lead further evidence with respect to additional issues deserves to be set aside for the reasons stated hereinbelow.

6. A perusal of Order XIV Rule 1 CPC would show that every material proposition of law or fact affirmed by one party and denied by the other shall form the subject of a distinct issue. Under Order XIV Rule 5, power has been given to the trial Court to amend or strike out issues and the same can be done at any stage before passing the final decree. The coordinate Bench of this Court in the case of *Satnam Singh Sharma (supra)* had observed that with every amendment or addition in the issues, a fresh opportunity should be given to the parties by the Court to lead evidence regarding the said additional issue.

7. In the present case, it is not disputed before this Court that the three issues which have been framed by the trial Court vide order dated 12.09.2023 are material issues and arise from the pleadings of the parties. The said issues are reproduced hereinbelow:

“1 A. Whether Will dated 06.12.1991 was executed by Raghbir Singh in favour of the plaintiffs ?OPP
1B. Whether plaintiffs are entitled to the declaration of



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mutation No.2221 of village Khera, Tehsil and District Fatehgarh Sahib is liable to be set-aside in light of Will dated 06.12.1991 executed by Raghbir Singh in favour of the plaintiffs?OPP

1C. Whether plaintiffs are entitled to the declaration that transfer deed bearing Vasika No.2106 dated 08.11.2017 executed by defendant No.1 in favour of the defendant No.2 is liable to be set aside being null & void? OPP”

8. It is further not in dispute that earlier the said issues were not framed and accordingly, the additional issues were framed by the trial Court on the basis of the pleadings of the parties. The trial Court, however, has not granted the opportunity to the parties to lead evidence on the said issues. This Court is of the opinion that once the said additional issues were necessarily required to be framed, as they arise from the pleadings of the parties, then the trial Court should also have granted opportunity to both the parties to lead evidence with respect to all the said additional issues. Since the suit is of the year 2017, thus, as per this Court, the interests of justice would be met in case both the parties are granted two effective opportunities to lead evidence on the abovesaid three additional issues.

9. Keeping in view the abovesaid facts and circumstances, the present revision petition is partly allowed and the impugned order dated 12.09.2023 to the extent that the parties have not been permitted to lead evidence on the additional issues is set aside and both the parties are granted two effective opportunities to lead their evidence on the abovesaid three additional issues. The same would be subject to cost of ₹15,000/ which the petitioners would deposit within a period of two weeks from today and on



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doing so, the said amount would be paid to respondent No.2 who is the main contesting party in the present case.

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Puneet

(VIKAS BAHL)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes