
(2010) 10 P&H CK 0179
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 6454 of 2010 (O and M)

Dushyant Kumar

APPELLANT

Vs

Santosh Rani and Others

RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 3, Order 6 Rule 17
Constitution of India, 1950 — Article 227

Citation : (2010) 10 P&H CK 0179

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—This revision petition under Article 227 of the Constitution of India has been filed for setting aside order dated 29.9.2010 passed by the Additional Civil Judge (Senior Division), Karnal whereby the application moved by the Petitioner under Order 6 Ruler 17 of the CPC has been dismissed.

2. It is not in disputed that one Baldev Raj died leaving behind his widow-Smt.Giano Devi. Respondent Nos. 1 and 2 claimed inheritance to the estate of Baldev Raj on the basis of a Will allegedly executed by the deceased in their favour. Smt. Giano Devi contested the same and filed a suit to say that the Will was forged, fabricated and not binding upon her rights. During the pendency of that suit, Smt. Giano Devi also died allegedly leaving behind a Will in favour of the Petitioner. Thereafter, an application under Order 22 Rule 3 of the CPC was filed by the Petitioner in the suit of Smt. Giano Devi to say that he is a necessary party as the deceased left a Will in his favour. That application was allowed and the Petitioner was permitted to prosecute the suit. During the subsistence of these proceedings, the Petitioner moved an application under Order 6 Rule 17 of the CPC seeking to amend the plaint to set up a plea that Smt. Giano Devi had executed a Will in his favour which is a necessary fact to be adjudicated upon in the suit. The said application has been declined by the impugned order which is a

cause of grievance herein.

3. Learned Counsel for the Petitioner has contended that the amendment as sought by the Petitioner is necessary for proper adjudication of the matter as the estate of deceased- Baldev Raj is in question. He further contended that essentially if the amendment is allowed, the Petitioner will be able to effectively establish his claim to the estate of Baldev Raj and also negate the claim of the Respondents which is also based on a Will which is a forged and fabricated document.

4. After hearing the learned Counsel for the Petitioner and perusing the file, I am of the opinion that there is no infirmity in the impugned order. The Petitioner has an independent cause of action to be asserted before a Court of competent jurisdiction. However, the subject-matter being essentially the same, he may have a case to get his suit clubbed with the pending suit filed by deceased - Smt. Giano Devi, but under no circumstance, can he pray for amendment of the suit in which the challenge was laid to the Will allegedly executed by Baldev Raj in favour of the Respondents and as a counter, set up a Will supposedly executed by Smt.Giano Devi in his favour.

5. Finding no ground to interfere, the revision petition is held to be without any merit and is dismissed.

6. All pending civil miscellaneous applications are also dismissed in view of the above.