
(2010) 10 SHI CK 0186
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 48 of 2010

Jasbir Singh and Another

APPELLANT

Vs

Charan Singh and Another

RESPONDENT

Date of Decision : 27-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0186

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—This petition is directed against the order passed by the learned Civil Judge, (Junior Division) Court No. 2, Amb, District Una dated 12.11.2009 whereby the learned Trial Court allowed the application filed by the defendants to produce and prove on record a Will dated 22.8.1994 and two release deeds dated 10.7.1995.

2. A perusal of the record clearly shows that in the written statement itself, the defendants had raised a plea that the Will had been executed by Smt. Gokli Devi on 22.8.1994 and two release deeds dated 10.7.1995 had been executed by Preetam Kaur and Mohinder Kaur in favour of the defendants. Whether such Will or release deeds could be executed or not and what is the value thereof has to be seen by the learned Trial Court. However, the learned Trial Court has not erred in permitting the defendants to produce and prove these documents. Reference to these documents had been made in the pleadings itself but it appears that these documents had not been filed on record.

3. It may be true as contended by Sh. Ajay Sharma, learned Counsel for the petitioners that this was not a case for allowing additional evidence because at that stage, no evidence had been led by the defendants and additional evidence can only be permitted after some evidence had been led. However, the fact is that the learned Trial Court had jurisdiction to permit the defendants to place on record and prove the documents. Merely because a reference is made to a wrong provision of law would not make the order itself illegal. Even otherwise, I am of

the considered view that since the defendants had taken the stand clearly in the written statement filed by them, no prejudice has been caused to the petitioners.

4. The parties through their counsel are directed to appear before the learned Trial Court on 13th December, 2010. Since the suit is very old one relating back to the year 1997, the learned Trial Court is directed to dispose of the same at the earliest and in any event not later than 31st March, 2011. The Registry is directed to send the record of the learned Trial Court back immediately.

5. With these observations, the petition is disposed of. No order as to costs.