

(2013) 10 P&H CK 0149
In the Punjab And Haryana At Chandigarh
Case No : CR No. 6173 of 2013

Ladli Jiwan Sharma

APPELLANT

Vs

Varun Sharma and Others

RESPONDENT

Date of Decision : 09-10-2013

Acts Referred:

Citation : (2013) 10 P&H CK 0149

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : O.P. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Ladli Jiwan Sharma, who is respondent No. 2 before the Additional District Judge (Probate Court), has filed this revision petition under Article 227 of the Constitution of India assailing order dated 04.09.2013 (Annexure P-8) passed by the trial Court thereby dismissing application (Annexure P-6) filed by the petitioner herein for dismissing the probate petition, which has been instituted by respondents No. 1 and 2 herein regarding alleged Will executed by Om Jiwan Sharma since deceased. It was alleged in the application that notice (Annexure P-4) published in newspaper for giving notice of the probate petition to the general public (respondent No. 1 in the probate petition) has not been published according to provisions of law because complete names of parties and details of property in dispute have not been mentioned therein. It was also alleged that Section 283(3) of the India Succession Act, 1925 has also not been complied with.

2. Probate petitioners by filing reply opposed the application (Annexure P-6) and controverted the averments made therein. However, unfortunately, the said reply has not been placed on record of this revision petition.

3. I have heard counsel for the petitioner and perused the case file.

4. Counsel for the petitioner did not press the objection relating to non-compliance of Section 283(3) of the India Succession Act, 1925, although mentioned in application (Annexure P-6). However, counsel for the petitioner contended that publication of notice in newspaper (Annexure P-4) does not contain details of the parties and details of Will of the testator and the disputed properties and, therefore, the said notice is not a valid notice. The contention is completely misconceived and meritless. Counsel for petitioner could not refer to any provision of law or precedent in support of this contention. On the contrary, title of the probate case has been mentioned in the notice (Annexure P-4) and name of the Court as well as next date of hearing have also been mentioned. Consequently, anybody interested in knowing the other particulars of the case could have enquired about it from the concerned Court. In any event, the aforesaid objection does not lie in the mouth of present petitioner who has been impleaded by name as respondent No. 2 to the probate petition, besides impleading general public as respondent no. 1 and besides impleading proforma respondent No. 3 in the probate petition. The petitioner herein has knowledge of the probate petition being party thereto in his own name and is defending the same accordingly. Consequently, he could not raise objection regarding lack of particulars in publication of notice (Annexure P-4). In addition to it, if any interested or appropriate party has been omitted to be impleaded in the probate petition, the petitioner herein also could have pointed out the same. For the reasons aforesaid, I find that application (Annexure P-6) filed by the petitioner herein, is completely misconceived and meritless and the same has been rightly dismissed by the Probate Court. There is no infirmity, much less perversity, illegality or jurisdictional error in impugned order of the Probate Court so as to call for interference by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The revision petition is completely meritless and misconceived and is, therefore, dismissed in limine.