



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

(121)

CR-3534-2026 (O&M)

Date of Decision: **29.04.2026**

KRISHAN LAL

... Petitioner

Versus

KIRPA RAM AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Parvinder Singh, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been instituted under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court to assail the order dated 24.02.2026 (Annexure P-1) passed by the learned Civil Judge, SBS Nagar, whereby the petitioner–defendant has been directed to adduce evidence prior to the respondent–plaintiff.

2. A conspectus of the relevant facts reveals that the respondent–plaintiff instituted a civil suit, which was contested by the petitioner–defendant by filing a written statement. The learned trial Court initially framed issues vide order dated 12.02.2026 and adjourned the matter to 24.02.2026. On the said date, the learned trial Court re-framed the issues and, by the impugned order, adjourned the case to 19.03.2026, directing that the defendants shall lead evidence prior to the plaintiff.



2.1. Aggrieved by the aforesaid direction, the petitioner–defendant has preferred the instant revision petition.

3. Learned counsel for the petitioner has contended that the learned trial Court has acted in patent disregard of the settled principles governing the right to begin, as embodied in the Code of Civil Procedure, 1908 (for short, “CPC”). It is submitted that the burden to establish the case squarely lies upon the respondent–plaintiff, who is required to stand on the strength of his own case and lead affirmative evidence in support thereof.

3.1. It is further urged that the learned trial Court has failed to appreciate that the respondent–plaintiff has set up a specific plea asserting the suit property to be ancestral coparcenary joint Hindu property, which necessarily casts the initial onus upon him to prove such assertion.

3.2. Reliance has been placed upon the judgment of this Court in ***Mrs. Parkash Kaur vs. Shamsher Singh and Others, 2008(4) RCR (Civil) 457***, wherein it has been held that a plain reading of the relevant provisions of the CPC makes it evident that the right to begin ordinarily vests in the plaintiff, and the Court is not empowered to compel the defendant to enter the witness box and adduce evidence in the first instance. Further reliance has been placed on ***Haran Bidi Supplier and Another vs. M/s V.M. and Company (Law Finder Document ID #136907)*** in support of the said proposition.

4. I have heard learned counsel for the petitioner at length and have carefully perused the paper-book with his able assistance.



5. From a perusal of the plaint, it emerges that the respondent–plaintiff has sought a declaration to the effect that he is owner in possession of a 1/6th share in the suit property, allegedly inherited from his father by way of natural succession. The petitioner–defendant, while admitting the status of the respondent–plaintiff as a natural heir, has contested the claim by setting up a testamentary disposition in his favour.

5.1. The learned trial Court, vide the impugned order, re-framed the issues and, having regard to the onus cast under Issue No.10, directed the petitioner–defendant to lead evidence in the first instance. The said direction is predicated upon the consideration that, in the event the petitioner–defendant fails to establish the Will propounded by him, the devolution of the estate of the predecessor-in-interest would necessarily be governed by the rules of natural succession, entitling the respondent–plaintiff to a share therein.

5.2. In this backdrop, reference to the provisions of Order XVIII Rule 1 of CPC, which govern the right to begin, assumes material significance and reads as under:-

“The plaintiff has the right to begin unless the defendant admits the fact alleged by the plaintiff and contends that either in point of law or some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has right to being.”

6. In view of the mandate contained in Order XVIII Rule 1 of CPC, and having regard to the factual matrix of the present case, this Court finds no infirmity in the approach adopted by the learned trial Court. The petitioner–defendant, having set up a Will to assert exclusive



entitlement to the estate of the predecessor-in-interest, has assumed the initial burden of proving the said testamentary instrument.

6.1. The learned trial Court, therefore, rightly framed the relevant issue and, in consonance with the settled principles governing the burden of proof, directed the petitioner–defendant to lead evidence in the first instance. The said direction is an exercise of judicial discretion vested in the Court, which has been invoked in a sound, reasoned, and judicious manner, warranting no interference in the exercise of supervisory jurisdiction.

6.2. The aforesaid position stands fortified by the authoritative pronouncement of the Hon’ble Supreme Court in ***Jami Venkata Suryaprabha & Another vs. Tarini Prasad Nayak and Others, 2024 INSC 1001***, wherein it has been held as under:-

“Order XVIII Rule 1 indeed provides for plaintiff's right to begin the evidence but not the court's obligation to ask the plaintiffs to begin first. There is no impediment for the court to call upon either party to lead evidence first, depending upon the facts and circumstances of the case and the nature of the issues framed. Neither party can insist that the other one should be asked to lead it first. It all depends upon what the Court deems proper in the circumstances. Where it finds that defendant's plea strikes of the root of the case, there would be no hitch in asking him/her to prove such plea first which can lead to disposal of the case. There can be no watertight compartmentalisation in matters of justice and all rules of procedure are designed and directed to achieve and secure ends of justice.”

7. In view of the foregoing discussion and findings, this Court is of the considered opinion that the present revision petition is devoid of



merit and does not warrant any interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, the petition stands **dismissed**.

8. It is, however, clarified that the observations recorded hereinabove are confined strictly to the adjudication of the issue arising in the present proceedings and shall not be construed as an expression of opinion on the merits of the underlying dispute. All such observations are limited to the scope of the controversy examined for the purposes of this order and shall neither prejudice nor influence the rights, claims, or contentions of the parties in the main proceedings or in any other collateral proceedings. Nothing contained herein shall be treated as a conclusive determination of any substantive question of fact or law involved in the suit pending before the learned trial Court.

9. Consequent upon the final adjudication of the present petition, all pending miscellaneous applications, if any, shall stand disposed of by necessary implication, and no separate orders are required to be passed thereon.

29.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No