

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 194 of 2013(O&M)
Date of Decision: August 21, 2015

Jang Singh and another

..... Petitioners

Versus

Pavittar Singh (deceased) through his L.Rs and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H. S. Dhandi, Advocate
for the petitioners.

Mr. A. S. Jattana, Advocate
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (Oral)

The challenge in the present petition is to the order dated 6.12.2012 whereby the application filed by the petitioner-defendant for placing on record the original sale deed dated 19.5.1998 by way of additional evidence has been dismissed.

Mr. H. S. Dhandi, learned counsel appearing on behalf of the petitioners-defendants submits that the factum of sale deed is admitted by the witnesses but it has been stated that it was without consideration. The photocopy of the sale deed has been proved on record but due to inadvertence the original could not be produced and proving the original is a sine qua non for the adjudication of the suit for the reasons that it goes to the root of

matter and it would be for the court to adjudicate.

Mr. A. S. Jattana, learned counsel appearing on behalf of the respondents submits that the act on the part of the petitioners-defendants tantamounts to filling up a lacuna. The factum of sale deed was very much in the knowledge of petitioners-defendants which has been specifically pleaded in the written statement yet the petitioner did not prove and place it on record. Therefore, the order under challenge is fair, legal and justified and no interference is warranted.

I have heard learned counsel for the parties and appraised the paper book.

It is a matter of record that the witnesses of the plaintiffs-respondents admitted the execution of the sale deed but it has been stated that it was without consideration. The petitioner-defendant has pleaded in the written statement about the execution of the sale deed in question. The photocopy of the same is also on record. However, due to inadvertence as per averments made, the same could not be proved and produced on record.

In my view, in a suit for declaration the execution of the sale deed would go to the root of the matter. It would help the court to adjudicate the *lis* between the parties. No prejudice would be caused to the parties in case petitioner-defendant is permitted to produce and prove the original sale deed dated 19.5.1998 in accordance with law by way of additional evidence.

The impugned order, in my view is not sustainable, therefore, is set aside.

The revision petition is allowed.

The petitioner-defendant is permitted to prove and produce the original sale deed dated 19.5.1998 in accordance with law by taking two opportunities. The trial court shall give two opportunities to the petitioner-defendant and thereafter shall decide the matter in accordance with law.

(AMIT RAWAL)
JUDGE

August 21, 2015
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