

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.247 of 2015.
Decided on:-13.1.2015.

Mst. Majidan.

.....Petitioner.

Versus

Mohammad Sadiq and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

Present:- Mr. Surinder Garg, Advocate
for the petitioner.

Dr. Bharat Bhushan Parsoon, J (Oral)

A suit for joint possession to the extent of ½ share of the suit land as also for prohibitory injunction restraining the defendants from alienating any portion of the land filed by the plaintiff, petitioner herein, is pending adjudication before the lower court and is at the stage of conclusion as the same is fixed for adducing rebuttal evidence, if any, by the plaintiff and for arguments.

2. When the petitioner-plaintiff had availed seven opportunities to produce rebuttal evidence and arguments, an application for re-framing of the issues was made under Order XIV Rule 5 CPC which was contested tooth and nail by the opposite parties. After contesting the suit for all these years and when the same has come at the stage of arguments, the plaintiff has now sought framing of the following issues:

- (i) Whether Hassi (mother of plaintiffs) was previously married to Faridu and after the death of Faridu, Hassi (mother of plaintiffs) was married to Umra father of

plaintiff? OPP

- (ii) Whether defendants No.1 to 3 alongwith Rehmi were born from the wedlock of Hassi and Faridu? OPP
- (iii) Whether the alleged gift deed No.984 dated 24.6.1969 is void and forged document? OPP

3. It would be noteworthy that issues in this case were framed as back as on 16.7.2012. Issue No.1 framed therein is as under:

“Whether the plaintiff is entitled for the joint possession to the extent of half share out of the suit land as prayed for? OPP”

4. Understanding the entire controversy as also attending facts and circumstances, the lower court came to a firm finding that issue No.1 already on record is a comprehensive one and also covers the controversy to be adjudicated vide additional issues sought to be framed by the plaintiff.

4. Perusal of the paper book reveals that even earlier, the plaintiff had moved an application under Order VI Rule 17 CPC when the case was fixed for arguments. The said application was dismissed. Noting conduct of the plaintiff in prosecuting his cause in the proceedings, the learned lower court has come to a conclusion that even the present application for framing of additional issues is nothing but a ruse to delay and dilate the proceedings.

5. Relevant portion of the impugned order with approval is reproduced as under:

“The perusal of the case file shows that the present application has been filed on 28.7.2014 at the stage of rebuttal and arguments. The defendant and plaintiff has already closed their evidence. Moreover, before that application an application under Order VI Rule 17 CPC filing at the stage of rebuttal and arguments which was also dismissed. The present suit has been filed on 2.2.2011 and issues in the present case have been framed on 16.7.2012 and after that plaintiff concluded his evidence on the issues framed on 16.7.2012. Moreover, the

defendants have also concluded their evidence and the present application has been filed after availing the seven effective opportunities for rebuttal and arguments. Moreover, the alleged issues No.(i) to (iii) are ancillary to the issue No.1 and issue No.1 is a comprehensive issue which covers the alleged issues No.(i) to (iii). Therefore, in view of above discussion, this court is of the view that the present application has been filed just to delay the proceedings of present case. Thus the present application is hereby dismissed. Now come upon 16.10.2014 for rebuttal and arguments subject to last opportunity.”

6. The present petition before this Court is yet another move to delay and dilate the proceedings before the lower court and is nothing but misuser of the process of the Court.

7. Keeping in view the totality of facts and circumstances as mentioned earlier, no ground to interfere with the impugned order dated 4.10.2014 (Annexure P-4) of the lower court is made out. Sequel, affirming the same, this petition, being devoid of any merit, is dismissed.

(Dr. Bharat Bhushan Parsoon)
Judge

January 13, 2015

'Yag Dutt'

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes