

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CR 2549 of 2013

Date of decision:- 29.6.2015

Parminder Singh

Petitioner

vs.

Manjit Singh & Ors

Respondent

Present: Mr. Ashok Bhardwaj, Advocate.
Mr. VK Garg, Advocate for respondents 1,2 and 4

M.M.S.BEDI,J.

Vide impugned order dated 5.4.2013 defendant No.1 has been permitted to lead additional evidence regarding sale deed dated 28.1.1994. A perusal of the record indicates that the plaintiff- petitioner has filed a suit for possession by way of partition by meets and bounds to the extent of 1/6th share of the plaintiff in the house in dispute, which is mentioned in the heading of the plaint. Vide impugned order, copy of the sale deed dated 28.1.1994 has been permitted to be proved in accordance with law. The sale deed has got the effect of transfer of rights in the property from defendant No.1 and his wife Joginder Kaur. The said sale deed, though is not concerned with the property, which is subject matter of the suit, but for determining the maintainability of the suit for partition, the copy of the sale deed will be an important piece of evidence to enable the court to finally determine the rights of the parties.

Counsel for the petitioner has vehemently argued that with the amendment of CPC by removing Order 18 Rule 17-A from CPC, the right of the party to produce additional evidence has been curtailed.

I have carefully considered the contentions of counsel for the

petitioner and the judgments cited by him i.e. **Smt. Ina Kar vs. Amitava Ghosh 1982 AIR (Calcutta) 149, Anathula Sudhakar vs. P. Buchi Reddy (dead) by LRs & ors 2008(2) RCR (Civil) 879** and **M/S Bagai Consstruction Thr. Its proprietor Mr. Lalit Bagai vs. M/S Gupta Building Material Store 2013(2) Law herald (SC) 1344**. After going through the peculiar circumstances of the case, where the individual rights of the parties in the property in dispute are to be finally adjudicated upon, I am of the considered opinion that the production of sale deed dated 28.1.1994 will be relevant for the adjudication of the rights of the parties.

I have also considered the contention of the counsel for the petitioner that additional evidence, which has been permitted to be produced, is beyond pleadings and was already in the knowledge of the opposite party. I do not find any force in the said contention of counsel for the petitioner. It is a settled principle of law that the evidence is not to be pleaded. The document, which has been permitted to be produced on record by way of additional evidence, appears to be relevant for the final adjudication of the rights of the parties.

No ground is made out to interfere in the impugned order. Dismissed, without prejudice to the right of the petitioner to produce evidence to rebut the additional evidence, permitted to be produced on record.

June 29 ,2015
TSM

(M.M.S.BEDI)
JUDGE