

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 3539 of 2015 (O&M)
Date of Decision: 16.07.2015

Mrs. Chand Soni

.....Petitioner

Vs.

Sabina Aggarwal

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Gorakh Nath, Advocate,
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order 08.05.2015, whereby application moved by the petitioner for framing of additional issues, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner was the resident of the house in question since the year 2000. Husband of the petitioner had sold the house in question to the respondent. However, respondent could not seek vacation of the premises in question as it was shared household of the petitioner. In this regard, issues was liable to be framed by the trial Court.

In the present case, respondent had filed suit for mandatory injunction directing the petitioner to vacate and hand over the vacant possession of the house in question. Respondent has placed reliance on sale deed 24.01.2012 executed by Ravinder

Mohan Soni in her favour. The case of the petitioner on the other hand was that plaintiff was not entitled to the relief claimed by her. In fact petitioner was the legally wedded wife of Ravinder Mohan Soni. The house in question was ancestral property of Ravinder Mohan Soni. Petitioner had the right to live in the house in question as it was her shared/matrimonial household.

On the pleadings of the parties, following issues were framed by the trial Court.

“1. Whether the plaintiff is entitled for a decree for mandatory injunction as prayed for? OPP

2. Whether the plaintiff is entitled for permanent injunction as prayed for? OPP

3. Whether the suit of the plaintiff is not maintainable in the present form and the plaintiff has no locus standi to file the same? OPD

4. Whether the plaintiff is estopped by her own act and conduct from filing the present suit? OPD

*5. Whether the plaintiff has no cause of action to file the present suit? OPD
Relief.”*

When the case was listed for arguments, petitioner moved an application for framing of the following additional issues:-

“2a) Whether defendant can be evicted from the shared household house? OPP

2b) Whether house No. 940 Sector 8, Panchkula is a shared household of the defendant? OPD

2c) Whether there is a charge of the defendant on house No. 940 Sector 8, Panchkula?

2d) Whether the sale deed dated 24.01.2012 is hit by section 52 of the Transfer of Property Act? OPD

2e) Whether the husband of the defendant was competent to alienate the share household to the plaintiff? OPD

The learned trial Court rightly dismissed the application moved by the petitioner as there was no necessity to frame the additional issues now sought to be framed by the petitioner. It is settled proposition of law that mere non-framing of an issue would not make any difference as the parties knew their case and have lead evidence with regard to their respective pleadings. The trial Court will decide the suit on the basis of evidence led by the parties with regard to their respective pleadings. It appears that the application had been filed merely to delay the proceedings.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

July 16, 2015
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