

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

Civil Revision No.354 of 2015

Date of Decision: November 27, 2015

Ravinder Kaur

...Petitioner

Versus

Amit Jain & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.R.S.Bajaj, Advocate,
for the petitioner.

Mr.Amit Jhanji, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

The grievance of the petitioner in the present revision petition is against the impugned order dated 9.12.2014 (Annexure P-3), whereby the application seeking additional evidence to examine Ravinder Kaur plaintiff has been declined.

Mr.R.S.Bajaj, learned counsel appearing on behalf of the petitioner submits that a suit for declaration that Ravinder Kaur has become the owner by virtue of the sale deed dated 9.5.2003 was filed, whereas the respondents are alleging ownership by virtue of the sale deed dated 24.8.2007. The suit was instituted in January, 2010 through Special Power of Attorney Tejpal Singh, who is none else but father of Amitoj Singh, who was holding General Power of Attorney dated 7.4.2008. The entire evidence

has been led with regard to proving the ownership, but owing to the fact that

Ravinder Kaur has not stepped into the witness box, an application was moved through attorney to examine her as plaintiff's witness. He further submits that in case one opportunity is granted, no prejudice would be caused to the respondents.

Mr.Amit Jhanji, learned counsel appearing on behalf of the respondents submits that in a suit, Amitoj Singh had appeared as General Power of Attorney, whereas Tejpal Singh had appeared as Special Power of Attorney on the basis of special attorney dated 10.11.2010 and not attorney dated 6.8.2008, as is being alleged by the plaintiff. The suit was filed in January, 2010 and the attorney is also of 2010. The suit instituted by Tejpal Singh, being Special Attorney, was not maintainable. He further submits that the application to examine Ravinder Kaur by way of additional evidence had also been moved by both General Power of Attorney and Special Power of Attorney, i.e., Amitoj Singh and Tejpal Singh.

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

Since the plaintiff is claiming ownership on the basis of the sale deed, she should have stepped into the witness box on her own, instead of examining her General Power of Attorney and Special Power of Attorney. Even the application seeking permission to examine her by way of additional evidence has not been moved by her, but by the aforementioned General Power of Attorney and Special Power of Attorney and rightly so, the application has been declined.

It is a matter of record that the evidence of the plaintiff was closed by an order and the order had attained finality. Be that as it may, the fact remains that once the suit has been filed by the attorney and not by

Ravinder Kaur, in my view, the trial Court has rightly dismissed the application being not maintainable. In the absence of application moved by Ravinder Kaur in her individual capacity, the trial Court has rightly dismissed the application moved by the attorneys.

I do not intend to differ with the findings rendered by the trial Court in declining the application. Accordingly, the impugned order is upheld and the revision petition is dismissed.

November 27, 2015
ramesh

(AMIT RAWAL)
JUDGE