

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 3559 of 2015 (O&M)
Date of decision: 7.7.2015

Smt. Kiran Devi

.. Petitioner

v.

Subash Chand and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Munish Gupta, Advocate for the petitioner.
Mr. Sanjeev Kumar Panwar, Advocate for respondent No. 1.

...

Rajesh Bindal J.

The petitioner has approached this court impugning the order dated 20.4.2015, passed by the learned court below, whereby the application filed by her seeking permission to lead additional evidence, was dismissed.

The short contention raised by learned counsel for the petitioner is that earlier vide order dated 24.3.2015, the application in question, namely, for seeking permission to lead additional evidence in the form of sale deed dated 30.12.1994 was allowed, however, later on the case was transferred on the request of counsel for the defendants to other court and then to another court on account of annual general transfers of the officers, but the transferee court had taken up the application again and dismissed the same vide impugned order dated 20.4.2015, which was totally un-called for, as the application earlier allowed could not be taken up again and dismissed.

Learned counsel for respondent No. 1, though sought to argue that the application was not earlier allowed, however, while going through the same, he could not dispute this fact. He submitted that there was no

good reason to allow the application, hence, the order was erroneous. He further submitted that in case the present petition is to be allowed, respondent No. 1 be given liberty to impugn the order dated 24.3.2015.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, the suit was filed by Subash Chand against Kiran Devi (petitioner) and others for declaration claiming that the plaintiff is owner in possession of the ancestral property to the extent of his share, in which the petitioner filed application seeking permission to lead additional evidence to produce sale deed dated 30.12.1994, which was allowed by the court below on 24.3.2015 and the case was adjourned to 31.3.2015. On the apprehension shown by the defendants, the learned Civil Judge (Junior Division) referred the matter to the District & Sessions Judge for transfer of the case to other court. Vide order dated 1.4.2015, the learned District Judge withdrew the case from the court concerned and transferred the same to another court. The same was taken up by the transferee court and was adjourned to 18.4.2015. However, the officer having been transferred in annual general transfers, a new officer took over and the case was listed before him on 20.4.2015, on which date the application filed by the petitioner seeking permission to lead additional evidence was taken up again and was dismissed. The grievance of the petitioner is that the application, which already stood decided, could not be taken up again and dismissed, which had earlier been allowed.

Such anomalous situation has not come up before this Court for the first time. Earlier also in Civil Revision No. 7865 of 2010—M/s S. K. Engineering Works and another v. Gurdip Singh and others, decided on 21.3.2012, an application was decided twice. To streamline decision of the applications, certain directions were issued, which are extracted below:

- “(1) Each and every application filed in a case shall be numbered in seriatim in ascending order, which shall be independent in each case. All the applications shall be tagged and kept in a separate file.

- (2) The zimni order on the date when any application is filed shall briefly mention the purpose for which the application has been filed and by whom.
- (3) An index shall be put on the file mentioning the number of application serial-wise, the name of the applicant, date of filing, purpose of the application and the date of its disposal.
- (4) A note be put up on each application when disposed of about the date of its disposal.”

The aforesaid judgment was even circulated to all the Judicial Officers but despite this fact in the case in hand, no care was taken to maintain the record and deal with the application in the manner suggested. Unnecessary unavoidable litigation has been generated. The learned courts below to take care so that such a situation does not arise in future.

An application which was already decided could not be taken up by the court again under any circumstance, the order passed subsequently cannot sustain.

For the reasons mentioned above, the present petition is allowed. The impugned order dated 20.4.2015 is set aside. As stated by learned counsel for respondent No. 1, he may avail of his appropriate remedy in accordance with law against the order dated 24.3.2015.

(Rajesh Bindal)
Judge

7.7.2015
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(Refer to reporter)