

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5427 of 2014 (O/M)
Date of decision : 8.9.2015

Smt. Jaswinder Kaur

..... Revisionist

Versus

Surjan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Maharaj Kumar, Advocate, for the revisionist.

Mr. H.S. Saini, Advocate, for respondent No. 1.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 31.7.2014 (Annexure-P-6), passed by the learned Additional Civil Judge (Senior Division), Dera Bassi, vide which the application filed by defendant No. 1 under Order 6 Rule 17 of Code of Civil Procedure for amendment of the written statement was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

The brief controversy involved in the present case is that plaintiff/respondent No. 1 filed a suit for possession by way of

CR No. 5427 of 2014 (O/M)

-2-

specific performance of sale contract dated 21.4.2009. In the written statement filed by defendant No. 1/revisionist, defendant No. 1/revisionist admitted the execution of the agreement. She also admitted the receipt of Rs. 50 lacs as earnest money, but claimed that the rate of land is not less than Rs. 2 crores. Therefore, the agreement is not enforceable. The encashment of cheque amounting to Rs. 40 lacs was also admitted by defendant No. 1/revisionist. It was also admitted that the decree passed in Civil Suit No. 117 of 3.3.2009 may be creation of fraud and misrepresentation.

After framing of the issues and the completion of evidence of the plaintiff/respondent No. 1, the present application was filed. The earlier application for amendment of the written statement was withdrawn by defendant No. 1/revisionist. In this way, this was second application for amendment of the written statement.

Now, defendant No. 1/revisionist wants to withdraw all the admission made by her in the written statement regarding execution of the agreement, receipt of earnest money and the fact that decree passed in Civil Suit No. 117 of dated 3.3.2009 is result of fraud and mis-representation. Defendant No. 1/revisionist wants to explain the fact while denying the agreement and receipt of earnest money.

I am of the view that the lower Court has rightly held that

CR No. 5427 of 2014 (O/M)

these admissions are made by defendant No. 1/revisionist and valuable right has accrued to the plaintiff/respondent No. 1. Now, the said admissions cannot be allowed to be withdrawn by way of amendment of written statement. Moreover, in this case, the trial has already commenced and all the facts were earlier within the knowledge of defendant No. 1/revisionist. Therefore, no amendment, particularly of the present nature, cannot be allowed at this stage.

The present revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

8.9.2015
sjks