

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6176 of 2015 (O/M)
Date of decision : 18.9.2015

Balwan Singh

..... Revisionist

Versus

Smt. Punam

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. P.R. Yadav, Advocate, for the revisionist.

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 10.8.2015 (Annexure-P-6), passed by the learned Additional Civil Judge (Senior Division), Mahendergarh, vide which the application of the plaintiff/revisionist filed under Order 6 Rule 17 of Code of Civil Procedure, 1908 (in short 'CPC'), was dismissed.

The plaintiff/revisionist herein has filed a suit for specific performance of contract regarding land measuring 16 kanal. It is stated that on 18.4.2012, the plaintiff/revisionist was called by Ajit

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Singh, Contractor, alongwith original agreement of sale for the purpose of compromise. The defendant alongwith her husband started conversation for compromise, whereas the plaintiff/revisionist herein insisted the defendant to execute the sale deed. Defendant and her husband proclaimed that they will never give any land and threatened the plaintiff/revisionist to implicate him in false case. Resultantly, the plaintiff/revisionist agreed to receive earnest amount of Rs. 5 lacs from defendant. The defendant and her husband asked the plaintiff/revisionist to show original agreement to sell and asked the plaintiff/revisionist to make endorsement that he will withdraw the present suit after receiving the earnest money. Believing the representation of the defendant and her husband, the plaintiff/revisionist made the endorsement. Thereafter, the defendant stated that they will manage the amount after selling their other estate and asked the plaintiff/revisionist till then to keep agreement in his custody. It is alleged that the plaintiff/revisionist visited the defendant on 2.1.2014 to receive the amount, but the defendant did not pay it. The plaintiff/revisionist seeks to incorporate the aforesaid facts in the plaint.

I have heard the learned counsel for the plaintiff/revisionist and have also carefully gone through the file.

The perusal of the impugned order shows that the said development had taken place after filing of the suit. However, in this

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case, the issues were framed on 30.4.2013 i.e. little less than one year of the said incident on 18.4.2012 when after the alleged endorsement, no payment was made to the plaintiff/revisionist. The plaintiff/revisionist should have immediately moved the application before the framing of the issues to incorporate the said facts. However, now the trial has commenced and suddenly the plaintiff/revisionist has remembered that the defendant and her husband are not complying with the said oral undertaking. It is also evident that no evidence against the contents of the original written agreement is admissible in evidence. It appears that the amendment has been sought with some other motive. There was no due diligence on the part of the plaintiff/revisionist. All the facts were within the knowledge of the plaintiff/revisionist before the framing of issues. Now, the trial has commenced. Therefore, the trial Court has rightly dismissed the application of the plaintiff/revisionist under Order 6 Rule 17 CPC. There is no ground to interfere in the impugned order.

The present revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

18.9.2015
sjks