

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

CR No.7258 of 2015

Date of Decision: November 04, 2015

Rakesh Bhanot

.... Petitioner

vs.

Smt. Bhagwati Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajiv Kataria, Advocate for the petitioner.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the order dated 07.10.2015 (Annexure P-8) passed by learned Civil Judge (Jr. Divn.), Ludhiana, vide which the application filed by the plaintiff for discarding the affidavit of Dharam Pal Puri tendered as PW2/A along with Ex.D5, which is sale deed dated 25.06.2003 was dismissed.

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

Learned counsel for the petitioner has argued that the sale deed was not pleaded in the plaint. Therefore, it could not be produced in the evidence. Further, the sale deed should have been pleaded in the written statement and placed on record so that the plaintiff could challenge the same. Therefore, the documents, which were not placed on the file and not pleaded in the written statement, cannot be produced during the course of evidence.

Learned counsel for the petitioner has referred to the provisions of Order VIII, Rule 1-A and sub Rule 3 of Rule 1-A CPC.

I am of the view that the objections of the present petitioner can be met by ordering that if the sale deed dated 26.05.2003 (Ex.D5) is not pleaded in the written statement, the same being beyond pleading, cannot be considered at the time of disposal of the suit. However, the affidavit of Dharam Pal Puri as whole cannot be discarded. At the same time, it shall always be opened to the plaintiff to file application for amendment of the plaint to challenge the said sale deed, if he so desires.

Hence, the present revision petition is, accordingly, disposed of.

November 04, 2015
sarita

(KULDIP SINGH)
JUDGE