

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

**CR No.8016 of 2015.**

**Date of Decision: 30.11.2015.**

Gurbax Singh

....Petitioner.

**VERSUS**

Paramjit Kaur and others

....Respondents.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Mr. H.N.S. Gill, Advocate for the petitioner.

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**SNEH PRASHAR, J.**

By way of this petition under Article 227 of Constitution of India, petitioner Gurbax Singh has sought quashing of order dated 06.11.2015 passed by Additional Civil Judge (Senior Division), Samana vide which the application filed by the petitioner for de-exhibiting document Ex.PW3/1 was dismissed.

A suit for joint possession by declaring the plaintiffs-respondents as co-sharers in equal shares to the extent of 1/4th share in the suit property, was filed against petitioner Gurbax Singh-defendant No.2 and others. During examination of a witness PW3 of the plaintiffs the document i.e. a writing/compromise dated 13.06.2006 was tendered and exhibited in evidence. Subsequently, the petitioner alongwith other defendants filed an application for de-exhibiting the document Ex.PW3/1. The application was

contested by the respondents-plaintiffs. Finding that the interest of justice would be better served by keeping the issue open till conclusion of entire evidence of both the parties, learned trial Court vide order dated 06.11.2015 ordered for keeping the application pending and to be decided at the time of main arguments. Impugning the said order, the instant revision has been filed.

The submissions made by Mr. H.N.S. Gill, learned counsel representing the petitioner have been considered.

To begin with, it is important to mention that in the head note of the revision, the petitioner had mentioned that by way of impugned order dated 06.11.2015 learned trial Court had dismissed his application for de-exhibiting the document tendered in evidence as Ex.PW3/1. As indicated above, a perusal of the impugned order reveals that the application filed by the petitioner had not been dismissed and it had been kept pending for being decided at the time of decision of the case on merits. On this sole ground of representing wrong facts, the revision deserves to be dismissed.

Otherwise also, it is apparent from the impugned order that the document was tendered in evidence during statement of PW3 in the presence of learned counsel representing the petitioner-defendant. The reason given by learned trial Court for keeping the application pending are as under:-

*“At the out set it is being observed that the application in hand in effect pertains to the matter of procedure. However, considering the fact that at this stage the case was at the stage of evidence of plaintiffs as last opportunity and PW3 in all*

*probability is the last witness to be examined by the plaintiffs in view of the such orders of last opportunity, while considering the fact that at this stage of the case it would involve discussing of merits of the case to arrive at any finding regarding the relevancy of the factum of plaintiffs having brought the document in question on the date of cross examination or factum of the production of the such document in the evidence of PW3 or the plea of the plaintiff in her reply regarding this document going to the roots of the case; hence, in the considered view this Court, the interest of justice would be better served by keeping this issue open till the conclusion of entire evidence on behalf of the both the parties and while observing so the instant application is kept pending consideration to be decided at the time of main arguments.”*

Learned counsel for the petitioner could demonstrate no illegality or perversity in the order of learned trial Court. Disposal of the application on merits at this stage would indeed touch the roots of the issue between the parties. Legal validity of a document, tendered in evidence, '**Exhibited**' or just '**Marked**', has to be assessed at the time of decision of the case on merits. Merely because a document had been 'exhibited' does not make the same acceptable in evidence. It is only after proper scrutiny and analysis that a document 'exhibited' or 'marked' is accepted as a legal proof of a fact. Any kind of expression about a document during the trial can adversely affect the rights of a party. In the case in hand since the document already stands exhibited, the objection of the petitioner against the same has been rightly kept open by learned trial Court for being decided at the time of decision of case on merits.

Thus, there being no illegality or perversity in the order of learned trial Court which calls for intervention, the petition is dismissed.

**(SNEH PRASHAR)**  
**JUDGE**

**30.11.2015.**  
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