

235

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

CR-143-2015

Date of decision : 15.02.2016

Jagatpal

...Petitioner

Versus

Kela Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vinod S. Bhardwaj, Advocate
for the petitioner.

Mr. Shailendra Jain, Senior Advocate with
Mr. Siddharth Jain, Advocate
for the respondent No.1.

Mr. R.A. Sheoran, Advocate
for respondent No.3.

1. Whether reporters of local papers 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?

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the order dated 17.12.2014 whereby, the application seeking additional evidence in a suit for declaration challenging the sale deed allegedly to have been executed in favour of defendant Nos.1 and 2, has been dismissed.

Mr. Vinod S. Bhardwaj, learned counsel appearing on behalf of the petitioner submits that during the crop year 2013,

there was hail storm and on that account the petitioner-plaintiff received the compensation through cheque. This fact would show that he is the owner and in possession of the suit property. It is essential and necessary for the adjudication of the suit. The trial Court ought not to have dismissed the application, though the suit had reached at the stage of the arguments.

Mr. R.A. Sheoran, learned counsel appearing on behalf of respondent No.3 submits that he is Numberdar, the attesting witness to the sale deed dated 17.03.2008, therefore, he has no interest in the property.

Mr. Shailendra Jain, learned Senior Counsel assisted by Mr. Siddharth Jain, learned counsel appearing on behalf of the respondent No.1 submits that such evidence amounts to filling up of lacuna. Once, the petitioner-plaintiff sold the land and the possession has also been handed over, therefore, the application for additional evidence, has rightly been declined.

I have heard the learned counsel for the parties and appraised the paper book and am of the view that the payment through cheque is subsequent event to filing the suit, much less, closing of the evidence. It is event of June 2008. The petitioner-plaintiff, in case, is granted permission to lead evidence in support of the same, no prejudice would be caused to the defendants as they shall have right to cross-examine the witnesses. The witnesses so sought to be summoned in support of the additional evidence, in my view, the evidence sought to be brought on record by additional evidence goes to the root of the matter and for adjudication of the

controversy in the matter.

Keeping in view the aforementioned facts, the impugned order dated 17.12.2014 is hereby set aside and the application for additional evidence is allowed. One opportunity is granted to the petitioner-plaintiff to lead the evidence and the contesting defendants shall be at liberty to cross-examine and also shall be entitled to lead evidence to rebut the same.

With the aforesaid observations, the revision petition is allowed.

15.02.2016
yogesh

(AMIT RAWAL)
JUDGE