

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1477 of 2016 (O&M)

Date of Decision:-26.02.2016

Brij Mohini and others

...Petitioners

Versus

Gulzari Lal Chopra and others

...Respondents

CORAM: HON'BLE MR.JUSTICE SHEKHER DHAWAN

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?

Present:- Mr. Ankur Ghai, Advocate,
for petitioners.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for setting aside order dated 18.11.2015 (Annexure P-1) passed by Civil Judge (Junior Division), Payal whereby prayer made by the present petitioner to frame additional issues arising out of the pleadings of the parties as contained in Para No.9 of the application (Annexure P-2) was dismissed.

2. Earlier issues were framed on the basis of pleadings of the parties. On 16.09.2013 following issues were framed:

1. Whether the plaintiff is entitled to decree for declaration as prayed for? OPP.
2. Whether the plaintiff is entitled to decree for permanent injunction as prayed for? OPP.
3. Whether the present suit is not maintainable? OPD.
4. Whether the present suit is not properly valued for the purpose of court fee and jurisdiction? OPD.
5. Whether the suit is not within limitation? OPD.
6. Relief.

3. Perusal of plaint and written statement, which are placed on the file as Annexures P-3 and P-4 respectively, shows that the proposed issues are the most material and relevant issues, which should have been framed by the Court of First instance on 16.09.2013 itself.

4. The petitioner moved application for framing additional issues. Undisputedly it is the duty of the Court to frame proper issues arising out of the pleadings. Unfortunately the judicial Officer dealing with the matter settled the issues thereby completely ignoring the pleadings available on the file. Subsequently, even the application filed for framing of correct issues was declined vide impugned order dated 18.11.2015.

5. In view of the above, impugned order dated 18.11.2015 (Annexure P-1) is hereby set aside and the trial Court is directed to re-frame the issues arising out of the pleadings and also after considering the proposed additional issues by way of present petition.

6. Petition stands allowed in the above terms.

February 26, 2016
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(SHEKHER DHAWAN)
JUDGE