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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2136-2016 [O&M]

Date of Decision : March 21st, 2016

Smt. Champa Devi

.... Petitioner

Versus

Bhajan Lal 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. Rose Gupta, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for setting aside order dated 27.1.2016 [Annexure P/4] passed by Civil Judge [Junior Division], Hisar whereby application for additional evidence filed by the petitioner-plaintiff was dismissed, and the order dated 10.2.2016 [Annexure P/6] passed by the trial Court whereby application for recall of order, Annexure P/4, was also dismissed.

2 The petitioner had filed a suit for possession in respect of land measuring 76 Kanals 3 Marlas on the basis of a registered lease deed. Defendants contested the suit and after framing of issues, the case was fixed for Plaintiff evidence. Thereafter, the evidence of the plaintiff was closed vide order dated 24.7.2015 and the case was fixed for Defendants' evidence. The petitioner moved application dated 20.1.2016 for permission

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to produce two attesting witnesses of registered Will No. 9 dated 19.10.1982 and the said application was dismissed vide order dated 27.1.2016 [Annexure P/4]. Vide order dated 10.2.2016 [Annexure P/6], the application filed by the petitioner for recalling of the said order, dated 27.1.2016, was also dismissed.

3. Learned counsel for the petitioner submitted that both the witnesses to be examined by way of additional evidence are material witnesses as they are attesting witnesses of the Will. Earlier the said witnesses could not be examined despite exercise of due diligence. The said Will is a registered document and thus, cannot be a forged document. However, the Court below dismissed the application without taking into consideration all these facts and the impugned order be set-aside.

4. Having considered the submissions made by learned counsel for the petitioner, this Court is of the considered view that the Court below while deciding the application for additional evidence on 27.1.2016 has rightly observed that the petitioner-plaintiff was given due opportunity to lead evidence and thereafter the plaintiff's evidence was closed after affording more than reasonable opportunities [i.e. 11 in number] for leading her evidence. More so, the evidence to be adduced by way of additional evidence was well within the knowledge of the petitioner when due opportunity was given to her. In case the application for additional evidence is allowed, that would tantamount to allow the petitioner to fill up the lacuna in the evidence, which is not permissible as per law. There is no illegality in the order dated 27.1.2016 [Annexure P/4] whereby application for leading additional evidence was dismissed and there is on merit in the application for recalling of the said order, which was dismissed

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on 10.2.2016 [Annexure P/6].

In view of the above, there are no grounds for setting aside the impugned orders and the present revision petition stands dismissed being devoid of any merit.

(SHEKHER DHAWAN)
JUDGE

March 21st, 2016
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