

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2728 of 2016

Date of Decision: 30.05.2016

Pushpa Devi alias Pushpender Kaur

... Petitioner(s)

Versus

Smt. Sarto Devi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Saurabh Dalal, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India for setting aside the order dated 1.2.2016, passed by learned Civil Judge (Senior Division), Sonapat, whereby application, filed by the petitioner for leading evidence on her behalf, was dismissed.

Learned counsel for the petitioner submitted that the Court below has not considered the facts that petitioner has not been given any opportunity to defend the case. More so, the petitioner was misled by her counsel before the Court below and it is settled proposition of law that party should not be allowed to suffer because of lapse on the part of its counsel.

But the Court below completely ignored this fact while passing the order

under challenge and the same be set aside.

Having considered the submissions made by learned counsel for the petitioner and appraisal of the record of the case and grounds of petition, this Court is of the considered view that the Court below has already considered all the relevant facts of the case and found that it was not a case for allowing application of petitioner for recalling of order dated 16.4.2011 under Order 8 Rule 1 CPC read with Section 151 CPC. The main suit was filed by the respondent/plaintiff for seeking decree of permanent injunction for restraining the defendants from alienating or selling the house in question or creating third party interest in the house in question. Petitioner had engaged Mr. Ashok Bhardwaj, Advocate, who had appeared in the case and made statement on 2.11.2010 that she would not alienate the suit property till the decision of the suit. On that statement, suit was decided. The court below rightly disbelieved the contention of petitioner that even the fact regarding pendency of the suit came to her knowledge in September, 2015, especially when she had put her appearance through counsel on 2.11.2010 and she herself had made a statement. Subsequently, defence of the defendants was struck off vide order dated 16.4.2011 and there was absolutely no ground to recall the said order.

In view of above, present petition is without any merit and the same stands dismissed.

(Shekher Dhawan)
Judge

May 30, 2016

“DK”