

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

CR No.3015 of 2016 (O&M)

Date of decision : 10.11.2016

Harpreet Singh and others

...Petitioners

Versus

The Teg Co-op. House Building Society Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Gurpreet Kaur, Advocate for the petitioners.

Mr. Dharam Vir Sharma, Sr. Advocate with
Ms. Akshita Chauhan, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

The petitioners-defendants are aggrieved of the impugned order dated 21.03.2016 (Annexure P-5), whereby their application (Annexure P-3) moved for placing on record the documents indicating therein by way of additional evidence, has been declined.

Mr. Kanwaljit Singh, learned Senior Counsel assisted by Ms. Gurpreet Kaur, learned counsel appearing on behalf of petitioners-defendants submits that respondent-plaintiff instituted the suit against the defendants seeking declaration that they are owner in possession of the property described therein and also challenge to the sale deed referred therein alleged to have been executed by the incompetent persons. The

respondents-plaintiffs have already led the evidence in affirmative. So is the position with regard to the defendants. On enquiry, relies that following sale deeds, audit report and complaint referred in the application were executed accompanied by Resolution. It is in this backdrop of the matter, aforementioned documentary evidence sought to be placed on record as it would help the Court in adjudication of the lis. The aforementioned evidence could not be lead “despite exercise of due diligence”. But it is necessary in view of the averments made therein. In case, Court deems it appropriate to allow the application, he submits that his client be granted two effective opportunities for leading additional evidence within time frame which this Court may deem it appropriate.

Mr. Dharam Vir Sharma, learned Senior Counsel assisted by Ms. Akshita Chauhan, learned counsel appearing on behalf of respondent-plaintiff submits that there is no compliance of expression “despite exercise of due diligence” as defendants were in knowledge of the aforementioned fact. Suit is primarily based upon the incompetency of the persons. This fact was in their knowledge. Even in the written statement, submissions made in the plaint has been denied. But no application has come forth in not bringing on record the aforementioned documentary evidence by leading in affirmative. Suit is of the year 2005. The case is unnecessarily lingering on and it is nothing but an adoption of dilatory tactics and urges this Court for dismissal of the revision petition with exemplary costs.

He further submits that Resolution sought to be placed on record is nothing but an outcome of the forgery as entire proceedings and resolution passed therein are already on record of the Court below.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is force and merit in the submission of Mr. Kanwaljit Singh, Sr. Advocate.

Documentary evidence sought to be place on record reads thus:-

- i) Certified copy of the sale deed bearing Vasika No.59 dated 10.4.2003 alongwith enclosures duly certified by the Jt. Sub Registrar, Majri.
- ii) Certified copy of sale deed bearing Vasika No.146 dated 5.5.2003 alongwith enclosures duly certified by the Jt. Sub Registrar Majri.
- iii) Certified copy of sale deed bearing Vasika No.325 dated 5.6.2003 alongwith enclosures duly certified by the Jt. Sub Registrar Majri.
- iv) Certified copy of sale deed bearing Vasika No.350 dated 9.6.2003 alongwith enclosures duly certified by the Jt. Sub Registrar Majri.
- v) Complaint submitted by members of the Teg Co-op. House Building Society to Co-operation Minister alongwith various reports of department alongwith order of the Co-operation Ministers dated 20.1.2009. Alongwith reports submitted by officers of Co-operative Department alongwith legal notice dated 6.7.2005 and action taken by the department obtained by the applicants through RTI regarding working of the society.
- vi) Copy of Audit Report of Teg Co-op. House Building Society

for the finance year 2002-03 reported in the month of June 2004 carried out by Inspector Audit Co-op. Societies dated 2.6.2004, certifying the legality of the constitution of the management committee of the society.

as well as resolution indicated in para no.3 of the application.

The aforementioned evidence sought to be placed on record, in my view, is essential and necessary for adjudication/decision of the controversy as it would enable the Court to arrive at a just and fair finding.

Keeping in view facts noticed above, the petitioners-defendants had not been careful in bringing on record the evidence. They were not circumspect in bringing the evidence on record by leading the evidence in affirmative. I deem it appropriate to impose cost of Rs.10,000/- with direction to the trial Court, in essence, application (Annexure P-3) is allowed with liberty to the petitioners to bring on record additional evidence by taking two effective opportunities. Similar principal would apply to the respondent-plaintiff also. Cost to be paid to Ms. Akshita Chauhan, Advocate by way of cheque. Costs shall be condition precedent.

With the aforementioned observation, present revision petition is disposed of.

10.11.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No