

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4819 of 2016

Date of Decision.29.07.2016

Smt. Suman

.....Petitioner

Vs.

Smt. Sudesh Devi and others

.....Respondents

Present: Mr. Jai Vir Yadav, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order whereby the application for seeking the permission of the Court to lead additional evidence viz; ration card, re-examination of plaintiff and one witness Bijender has been declined.

Mr. Jai Vir Yadav, learned counsel of the petitioner submits that claim in the suit is for declaration and consequential relief of permanent injunction by challenging the sale deed dated 19.06.2006 on the premise that the plaintiff was possibly picked up/kidnapped by defendant No.2 and was kept in the house of defendant No.1 and in that process, the aforementioned sale deed was executed. It is conceded position on record that the husband of the petitioner had filed a habeas corpus and she was ordered to be produced in the Court. The aforementioned evidence is necessary to be brought on record by way of additional evidence.

The ration card is necessary to prove the relationship between the plaintiff and DW3. Certain things could not be stated while leading the evidence and therefore, the plaintiff and one Bijender Singh are required to

be examined again and this exercise would not cause any prejudice to the defendants and they would be at liberty to conduct cross-examination of the aforementioned witnesses. All these facts have not been noticed by the trial Court and therefore, there is illegality and perversity in the order under challenge and, thus urges this Court for setting aside of the impugned order while allowing the revision petition.

I have heard learned counsel for the petitioner and appraised the paper book. All the aforementioned factors were very well in the knowledge of the petitioner while leading the evidence in affirmative. No explanation has come forth as to how “despite due diligence”, the aforementioned evidence could not be led as the same was very much in existence. I have come across many cases where such type of applications are being filed at the instance of the plaintiff at the fag end of the trial. In my view, it is an attempt to fill up the lacuna as valuable right had already been accrued in favour of the defendant. The plaintiffs should be more vigilant in consulting the lawyers to prove their cases. It is settled law that no evidence in the garb of additional be led at the rebuttal stage in the absence of rebuttal issue.

I do not find any illegality and perversity in the order passed by the trial Court, much less, the order cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

July 29, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No