

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 507 of 2016
Date of decision : January 28, 2016

Sukhwinder Singh and others

..... Petitioners

Versus

Pritam Singh

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Harsh Bungar, Advocate
for the petitioners.

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?

Amit Rawal, J (oral).

The petitioner is aggrieved of the order dated 19.8.2015 and 4.11.2015 (Annexures P-3 and P-5) whereby an application seeking indulgence of the trial court to bring on record site plan by way of additional evidence has been declined.

Learned counsel appearing on behalf of the petitioners submits that due to inadvertence the same has not been proved in accordance with law. Despite the fact that the evidence was closed on 25.4.2014, but realized later on that site plan has not been proved in accordance with law, therefore, sought indulgence of the court and the aforementioned application was filed in this regard and the same has been dismissed. Thereafter another application

was moved which was dismissed vide impugned order. In support of his contentions, he has relied upon the judgment of Hon'ble Supreme Court in **K. K. Velusamy Vs. N. Palanisamy 2011 AIR SC (Civil) 1000** to contend that after causing of the amendment in CPC in 2002 despite the omission of provisions of Order 18 Rule 17-A, the party cannot be prevented to move application by taking aid of Section 151 CPC.

I have heard learned counsel for the petitioners and appraised the paper book.

Vide order dated 25.4.2014 the evidence of the plaintiffs was closed and the defendants closed their evidence on 19.5.2015. Thereafter the first application in this regard, was moved which was dismissed on 19.8.2015 and again an attempt was made by moving another application which has resulted into passing of the impugned order dated 4.11.2015. In case, the petitioners-plaintiffs have been allowed to prove the site plan, it would be re-opening of the evidence, which tantamounts to filling up of the lacuna whereas a valuable right in favour of the respondent-defendant has already accrued.

The site plan Ex.P-1 cannot be accepted in the absence of its proof. Even otherwise, already a demarcation report is on record, yet perpetual attempts had been made to prove the site plan.

The ratio decidendi culled out by the Hon'ble Supreme Court in **K. K. Velusamy 's case (supra)** is based upon the facts and circumstances of the case. In the aforementioned case, the suit was filed on 26.3.2007. The written statement was filed on

12.9.2007 and the suit was at the stage of arguments. On 11.11.2008 the appellant filed applications to bring on record certain facts which arose after conclusion of the evidence i.e. on 27.10.2008 whereas the facts of the present case are not identical to the one referred above. Liberty was given by invoking the power under Section 151 CPC to prove on record the additional evidence, in case of any subsequent event is permissible, but the same would not apply to the facts and circumstances of the present case as noticed above.

I do not find any illegality and perversity in the impugned orders and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits.
Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

January 28 , 2016
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