

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

CR No. 5148 of 2014 (O&M)

Date of decision: January 22, 2016

Naveen

...Petitioner

Versus

Smt. Tarawati

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

- 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. Pritam Saini, Advocate,
for the petitioner.

Mr. Parminder Singh-I, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

CM No. 23883 CII of 2015

For the reasons stated in the application, the revision petition is restored to its original file.

Main case

1. The revision petition is at the instance of the defendant who has moved an application for amendment of the written statement. The amendment purports to contend that the plaintiff's vendor Lal Chand under whom the plaintiff makes a claim to ownership of the portion of the suit property is not the owner of the property. The application for amendment has been declined and hence the revision petition.

2. The learned counsel for the petitioner explains that the petitioner has already denied the ownership of the property and if he now seeks to contend that the plaintiff's vendor was also not the owner of any portion of the property, there cannot be any inconsistency for denying the application for amendment. The learned counsel for the respondent/plaintiff explains that the plaintiff has actually admitted not merely the existence of the sale from Lal Chand on 29.4.1976 but he also admitted the plaintiff's right and ownership of the property purchased from Lal Chand.

3. Although the defendant has in paragraph 1 of the preliminary objection of the written statement denied that the plaintiff is the owner or in possession of the suit property, in his reply to the plaint, in paragraph 1 of the written statement, he has stated as under:-

“That para No.1 of the plaint is wrong and hence denied. In fact, the plaintiff is only owner in possession of an area of 267 square yards which she purchased from Lal Chand s/o Harnam Singh vide sale deed dated 29.4.1976. The defendant is owner in possession of the rest of the property which he purchased from Om Parkash vide sale deed No. 30.4.2007”.

The last three lines of paragraph 2 of the reply reads as under:-

“2...It is also wrong that entire area was covered by boundary walls. In fact the area of 267 sq. yards purchased by the plaintiff and remaining land is separated by separate boundary wall.”

4. Therefore, there is no ambiguity about the stand taken by the defendant that the plaintiff is not the owner of the whole property but he is

owner in possession to the extent of 267 square yards out of the total 540 square yards. The defendant has attempted to say that the property of 267 square yards is even separately identifiable by existence of separate boundary wall. These averments constitute admission of the plaintiff's entitlement to a portion of the property. The defendant cannot be permitted to withdraw such admission to contend that the plaintiff's vendor Lal Chand was not entitled to any property to make a sale in favour of the plaintiff.

5. The application for amendment was rightly rejected and there is no merit in the revision. The revision is dismissed with costs which is assessed at ₹3500/-.

January 22, 2016
prem

(K. KANNAN)
JUDGE