

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 658 of 2016

Date of Decision: 01.02.2016

Mohinder Singh and Another

... Petitioner(s)

Versus

Thakar Singh (since deceased) through his LRs. and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Jagjit Singh, Advocate
for the petitioners.

Shekher Dhawan, J.

Petitioners have challenged the order dated 8.1.2016 passed by learned Civil Judge (Junior Division), Kapurthala, whereby their application for leading additional evidence was dismissed.

Learned counsel for the petitioners submitted that main suit for permanent injunction was filed. The suit property was infact purchased in the name of defendant No.1 from the joint funds of plaintiffs but the sale deed was executed in favour of defendant No.1 as head of the family and the parties are governed by Hindu Law. Defendant No.1 was not having any legal right to alienate the property without any legal necessity. But defendant No.2, in connivance with

Baba Harnam Singh, got registered the sale deed in fraudulent manner in the name of Baba Harnam Singh and defendant No.2. Petitioners moved an application under Order 18 Rule 17 CPC read with Section 151 CPC for leading additional evidence so as to produce one passbook of Kapurthala Central Co-operative Bank, Kapurthala of Account No. 2/855 in the name of deceased Thakur Singh and Lakhwinder Singh to prove the alleged sale deed dated 12.6.2009 without consideration and also to identify the photograph of defendant No.1 who is father of the petitioners. However, the Court below dismissed the application, though the evidence is to be adduced and the document, sought to be produced, is most relevant for the just decision of the case.

Having considered the submissions made by learned counsel for the petitioners, this Court is of the considered view that application for leading additional evidence was filed. Petitioners, being plaintiffs, have already concluded the evidence and thereafter, defendants' evidence was also concluded. The case was fixed for rebuttal evidence and arguments. The Court below has rightly formed the opinion that no case is made out for leading additional evidence for the reason, firstly because the said document was not produced when more than reasonable opportunity was given to the petitioners and secondly, the nature of document is not such which shall help the Court to appreciate the evidence and controversy in the case.

As per amended provisions of Code of Civil Procedure, Order 18 Rule 17A has already been deleted. Needless to mention that leading of additional evidence in exceptional cases is permissible but the

party seeking additional evidence shall have to make out an exceptional case in that regard. But the petitioners have not been able to make out an exceptional case. Merely taking a plea and that too at the fag end of trial of the case that the document was not available when due opportunity was given to the parties. But thereafter, on one fine morning certain documents or piece of papers were traced out by the petitioners which may give rise to reopening of the entire matter by leading additional evidence. The leading of additional evidence is not permissible at all in such like cases and the Court below has rightly dismissed the application for additional evidence.

Present petition is not maintainable and the same stands dismissed.

(Shekher Dhawan)
Judge

February 1, 2016

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