

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6691 of 2015

Date of decision : May 16, 2016

Smt. Asha Popli

..... Petitioner

Versus

Anand Parkash

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. Sumit Gupta, Advocate
for the respondent.

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-defendant is aggrieved of the impugned order whereby the trial court declined the prayer for examination of vendee and stamp vendor i.e. statement of vendee from whom stamp paper for purchase of the property for entering into vide agreement to sell dated 13.3.2009, as well as that of sale deed registered on 5.5.2014 i.e. during the pendency of the suit on the basis of other agreement to sell dated 19.1.2011.

Learned counsel for the petitioner submits that for the purpose of adjudication of lis, cross-examination of subsequent vendee was enough to show that the agreement to sell was prior in time to the one set up by the respondent.

Learned counsel appearing on behalf of the respondent submits that there is no illegality and perversity in the

impugned order. The agreement to sell is an outcome of fraud and collusion between the aforementioned witnesses, much less there was ad interim stay, therefore there is defiance of the said interim order, thus urges this Court to affirm the impugned order.

I have heard learned counsel for the parties, appraised the paper book and of the view that the petitioner-defendant has not been able to prove that prior to the agreement to sell dated 13.3.2009 has been entered with Mahipal, there was agreement to sell dated 19.1.2011 propounded by the respondent-plaintiff as there is categorical averment though the sale deed has been executed during the pendency of the suit. The examination of the aforementioned vendee and stamp vendor is essential and necessary for adjudication of the suit as it would help the court in arriving at just and equitable finding. In my view the reasoning assigned for declining the application is totally erroneous and misplaced.

Even otherwise, if the sale deed had been executed during the operation of interim order it would have been appreciated by the trial court but not in the manner and mode as has been done.

In view of the aforementioned facts, the impugned order is set aside. The revision petition stands allowed. The petitioner-defendant is allowed to examine the aforementioned witnesses.

(AMIT RAWAL)
JUDGE

May 16 , 2016
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