

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

CR-7484-2016 (O&M)
Date of decision: 9.11.2016

Manil Khara and another**Petitioners.**

Versus

Ranbir Singh and another**Respondents.**

CORAM: - HON'BLE MR. JUSTICE RAJAN GUPTA.

Present: - Mr. Rakesh Gupta, Advocate for petitioners.

Rajan Gupta, J.

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Present revision petition is directed against the orders dated 26.10.2016 (Annexure P-1) and dated 21.9.2016 (Annexure P-2) passed by the court below which is the effect of closure of plaintiffs' evidence. It has been urged before the court that documents expert namely Dr. Inderjit Singh (PW-1) appeared before the trial court on 21.1.2015 and tendered his evidence as examination-in-chief. Thereafter for one reason or the other he could not be cross-examined. His affidavit, therefore, cannot be taken into consideration.

Notice of motion.

At this stage, Mr. Chetan Mittal, Sr. Advocate with Ms. Rubina Virmani has put in appearance on behalf of respondents and opposed the prayer. According to him, document expert never tendered his affidavit as evidence before the court below.

I have heard learned counsel for parties. It appears that suit was instituted by the plaintiffs seeking a declaration that they were owners in joint possession of the land to the extent of half share in the total land measuring 23 kanal 2 marlas situated in Sanour, Tehsil and District, Patiala with a prayer that transfer deed dated 12.1.2004 executed by defendant No. 2 in favour of defendant No. 1 to the exclusion of rights of the plaintiffs was null and void. Plaintiffs were given opportunity to lead evidence and they examined all their other witnesses.

Keeping in view the facts and circumstances of the case, I find that one opportunity needs to be granted to the plaintiffs to conclude their evidence at their own risk and responsibility. Under the circumstances, order dated 21.9.2016 is hereby set aside. Court below would grant one opportunity to the plaintiffs to conclude their evidence. It is further made clear that cross-examination of document expert Dr. Inderjit Singh (PW-1) shall be subject to condition that his affidavit is already on record as examination-in-chief.

Plaintiffs shall be liable to pay ₹ 20,000/- as costs to be remitted to defendants.

Allowed in the above terms.

(RAJAN GUPTA)
JUDGE

9.11.2016
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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No