

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.836 of 2016

Date of decision:05.12.2016

Narain Singh

... Petitioner

Vs.

Yudhvir Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vikas Chaudhary, Advocate
for the petitioner.

Mr. Adarsh Jain, Advocate
for respondent No.1.

Mr. Yashpal Thakur, Advocate
for respondents No.2 and 3.

AMIT RAWAL J. (Oral)

Petitioner/defendant No.18 is aggrieved of the impugned order dated 27.08.2015 (Annexure P-11), whereby, the application seeking liberty of the trial Court for cross-examination of defendants No.16 and 17, has been dismissed.

Mr. Vikas Chaudhary, learned counsel for the petitioner submits that in a suit for partition, a categorical stand of the aforementioned defendants No.16 and 17 was that the property in dispute had already been partitioned. However, during the pendency of the suit, they in collusion with the plaintiff took a U-turn by filing an affidavit that the partition had not

been affected. It is in this aspect of the matter, there is clash of the interest as specific stand of petitioner/defendant No.18 was that there was already partition. All these facts have not been taken care of by the Court below. Even the plaintiff, who is seeking partition has already sold the excess share and therefore, the suit is not maintainable.

Mr. Adarsh Jain, learned counsel for respondent No.1 submits that petitioner/defendant No.18 in cross-examination to a specific question stated that he did not know whether the property is partitioned or not. He further submits that no cogent reasons have been assigned as to how the application seeking intervention of the Court for cross-examination of the aforementioned defendants was backed by and thus, urges this Court for affirming the findings under challenge.

I have heard learned counsel for the parties and appraised the paper book and of the view that in a suit for partition, it is the documentary evidence, to be seen and not the oral statements. The document may not tell a lie but a person may. Suffering of a statement of partitioned/ not partitioned is immaterial, therefore, I am of the view that the defendants have not been consistent with regard to the stand taken in the written statement, so is with the statement of defendants No.16 and 17.

In my view, no prejudice would be caused in the absence of cross-examination of the aforementioned defendants, though they have filed the separate written statement. In a suit for partition, all the parties are plaintiff (s) and defendants, can be transposed.

No ground is made out for interference in the impugned order.
Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

December 05, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No