

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8827 OF 2015(O&M)
Date of Decision: 25.2.2016

NARINDER SINGH AND ANOTHER

.....Petitioners

Vs.

KARAMJIT KAUR

.....Respondent

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sunil Garg, Advocate
for the petitioners.

Mr. Arvind Thakur, Advocate
for the respondent.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 21.08.2015 vide which the learned trial Court has framed the following additional issue:-

“Whether any legal and valid decree dated 17.08.1990 has been passed in favour of the defendants and Navdeep Singh, Lakhwinder Singh? If so, its effect? OPD”

Learned counsel for the petitioners contended that every decree passed by the Court is presumed to be legal and valid. He contended that in the entire plaint, no plea has been raised with respect to the legality of the decree dated 17.08.1990. Even in the replication, the plaintiff-respondent has only pleaded that no suit for declaration was

filed. It was further denied that any decree dated 17.08.1990 was passed in favour of Navdeep Singh and Lakhwinder Singh declaring them as owners in possession. He contended that even in the replication the legality and validity of the decree has not been challenged rather only the existence of the decree has been challenged.

Learned counsel for the respondent contended that no prejudice has been caused to the petitioners with the framing of the additional issue. They can prove this issue by producing a copy of the judgment and decree dated 17.08.1990.

I have duly considered the aforesaid contentions. The issues are to be framed in accordance with the pleas raised in the pleadings of the parties. This suit has been filed by the respondent-plaintiff for joint possession, claiming herself to be the legal heir of Gurcharan Singh. Petitioners are contesting the suit on the ground that said Gurcharan Singh has suffered the decree dated 17.08.1990 in their favour. In the plaint, no plea has been raised with respect to the decree dated 17.08.1990. However, in the replication, it has been denied that the above-stated persons have filed any suit or that any declaration was passed on 17.08.1990 as alleged. They further denied that any decree dated 17.08.1990 was passed in favour of Navdeep Singh and Lakhwinder Singh describing them as owner in possession of the land in dispute. So in the replication, the respondents have only challenged the existence of the decree. So, the additional issue framed by the learned trial Court is not as per the pleadings of the parties. Therefore, the additional issue framed by the learned trial Court is hereby

modified/recast as under:-

Issue No.4A:- Whether there exists any decree dated 17.08.1990 in favour of the defendants-Navdeep Singh and Lakhwinder Singh, if so, its effect? OPD.

The present petition stands disposed of accordingly.

February 25, 2016

SwarnjitS

(DARSHAN SINGH)
JUDGE