

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1825 of 2017

Date of decision: 15.03.2017

Satya Devi and another

... Petitioners

Vs.

Soran Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. G.S. Nagra, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Heard.

Notice of motion.

Mr. Prashant Bansal, Advocate accepts notice on behalf of the
contesting respondents No.2 and 3.

Heard learned counsel for the parties.

It has gone undisputed before this Court that the revenue documents in Urdu as well as translated copies thereof in Punjabi are already available on record. The documents have already been exhibited as Ex.P4, Ex.P6 and Ex.P8. Translated copies of these documents are Ex.P5, Ex.P7 and Ex.P9. Other documents are also on record as Ex.P4 to Ex.P41. However, the plaintiffs-petitioners sought permission of the learned trial Court for extension of time to examine Harbhajan Singh, for whose examination, application of the plaintiffs for additional evidence had already been allowed or to appoint the Local Commissioner to record the statement of Harbhajan Singh, because he had suffered a paralytic attack and became physically disabled. This prayer made on behalf of the plaintiffs was declined by the learned trial Court,

while passing the impugned order dated 10.08.2016.

The only argument raised by learned counsel for respondents No.2 and 3 is that the plaintiffs were trying to fill up the lacuna in their evidence. However, the solitary contention raised on behalf of the contesting respondents has been found wholly misplaced and not worth acceptance, for the reason that documents are already exhibited on record. In such a situation, it can be safely concluded that the petitioners-plaintiffs were not going to fill up any lacuna in their evidence. Had the relevant documents not been already exhibited on record, position might have been different. Having said that, this Court feels no hesitation to conclude that the learned trial Court failed to appreciate the true factual as well as legal aspect of the matter, while passing the impugned order and the same cannot be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every Court of law must make an endeavour to decide the litigation between the parties on its merits and not on technicalities alone. Further, technicalities must not be allowed to stand, while doing complete and substantial justice between the parties. No party to the litigation should be forced to go home with the grievance that sufficient opportunity was not granted to put up its best case before the Court. In the present case, examination of this witness Harbhajan Singh would facilitate the learned trial Court to arrive at a judicious conclusion and the learned Court would be in a much better position to do complete and substantial justice between the parties.

It is pertinent to note here that no prejudice of any kind, whatsoever, is going to be caused to the defendants-respondents, by examining the abovesaid witness Harbhajan Singh qua the revenue documents, which are already exhibited documents on record.

Learned counsel for the petitioners has also contended that in case it is

impossible to examine abovesaid Harbhajan Singh in support of the abovesaid revenue documents, because of his serious disability suffered due to paralytic attack, then the petitioners may be permitted to examine Hardev Singh, retired Kanoongo, granting them only one opportunity and that too subject to payment of reasonable costs.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality and perversity, the same cannot be sustained. The impugned order is hereby set aside. Petitioners shall be granted only one opportunity either to examine Harbhajan Singh or Hardev Singh, retired Kanoongo, however, subject to payment of Rs.5,000/- to be paid by the petitioners to respondents No.2 and 3 on the next date before the learned trial Court.

Consequently, learned trial Court is directed to grant one effective opportunity to the petitioners to examine either abovesaid Harbhajan Singh or Hardev Singh, retired Kanoongo, subject to payment of Rs.5,000/- to respondents No.2 and 3.

Resultantly, with the abovesaid observations made and directions issued, present revision petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

15.03.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No