

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision-2030-2017

Date of Decision:21.03.2017

Ved Parkash

.....Petitioner

Versus

Narinder Pal Singla and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.Rakesh Gupta, Advocate,
for the petitioner.

RAMESHWAR SINGH MALIK, J.(Oral)

Instant revision petition is directed against the order dated 07.03.2017 passed by the learned first appellate Court, whereby an application under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure (for short “the CPC”), moved on behalf of the plaintiff-respondent No.1 herein, was allowed during pendency of the first appeal.

Heard learned counsel for the petitioner.

A bare perusal of the operative paragraph of the impugned order dated 07.03.2017 will make it crystal clear that it was the learned first appellate Court itself who felt it necessary to examine the witness, who was sought to be examined by the plaintiff-respondent No.1 herein, during pendency of the first appeal, with a view to pronounce an effective judgment between the parties. Had the learned first appellate Court not recorded his necessity and satisfaction, position might have been different.

However, in the instant case, once the learned Additional District Judge

himself has felt the necessity of the evidence sought to be produced by the plaintiff-respondent No.1, before the first appellate Court by way of application moved under Order 41 Rule 27 CPC, this Court has found no fault in the impugned order, either factual or legal, because of which impugned order deserves to be upheld.

Relevant operative part of the impugned order at page 13 of the paper-book, which deserves to be noticed here, reads as under:-

*“After going through the contents of the application and its reply and going through the case file, this court is of the considered view that as it is not disputed fact that in Ex.D1, the description was added with the pen on which ground the respondent is claiming his ownership as well as possession of the suit property. Since substantial question is in order to find out whether the applicant-appellant is owner of the suit property or not, thus it is necessary to examine the witness as submitted by the applicant/appellant. Reliance can be placed upon case laws cited by learned counsel for the applicant titled **North Eastern Railway Administration, Gorakpur vs. Bhagwan Das (D) by LRs, 2008(3) RCR (Civil) 165** and **Mohinder Singh and others vs. Paramjit Singh and others, 2016(1) LAR 328**. As such, the evidence sought to be led by the applicant will be helpful to pronounce the judgment as well as there is substantial cause. So, in these circumstances, the present application for leading additional evidence is allowed and the applicant/appellant is allowed to summon concerned official of Municipal Corporation, Panchkula alongwith original record of sanction of building plan of property bearing house tax No.1024, Ram Nagar, Kalka alongwith attached sale deed dated 18.10.2005, for 20.3.2017.”*

During the course of hearing, learned counsel for the petitioner

could not point out any patent illegality or perversity in the abovesaid

observations made by the learned Additional District Judge, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. Since the learned Court below committed no error of law, while passing the impugned order the same deserves to be upheld, for this reason also.

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 the present revision petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, instant revision petition stands dismissed, however, with no order as to costs.

March 21, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No