

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3185 of 2017 (O&M)

Date of decision: 04.05.2017

Shiv Kumar

... Petitioner

Vs.

Chandro and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition, at the hands of defendant, filed under Article 227 of the Constitution of India, is directed against the order dated 07.04.2017 as well as order dated 19.04.2017 passed by the learned trial Court, whereby ossification test of the plaintiff-respondent No.1 was ordered by the learned trial Court.

Heard learned counsel for the petitioner.

A combined reading of both the impugned orders would show that there was no record available, where the date of birth/age of the plaintiff might have been recorded, she being a resident of remote area. Since the plaintiff was challenging the earlier civil Court decrees by way of suit for declaration on the ground that at the time of passing of impugned decrees, she was minor and there was no definite record available regarding her date of birth or age, it became her compulsive necessity for moving an application before the learned

trial Court for directing the medical authorities to conduct her ossification test, so as to ascertain the age of the plaintiff.

The learned trial Court passed the first impugned order dated 07.04.2017, directing CMO, Govt. Hospital, Narnaul to get conducted ossification test of the plaintiff. Before the next date of hearing i.e. 27.04.2017, it came to be transpired from the communication dated 17.04.2017 received from Civil Surgeon, Narnaul that facility of ossification test was not available at Govt. Hospital, Narnaul for want of bone specialist and radiologist etc., the learned trial Court directed Civil Surgeon, Hisar to conduct the ossification test of the plaintiff, by second impugned order dated 19.04.2017.

A bare combined reading of both the impugned orders would make it crystal clear that the learned trial Court considered each and every relevant aspect of the matter, before passing the abovesaid two impugned orders dated 07.04.2017 and 19.04.2017, causing no prejudice of any kind, whatsoever, to the petitioner-defendant. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned orders and the same deserve to be upheld.

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 grant sufficient opportunity to both the parties to put up their best case before the Court. Nobody should be condemned unheard or forced to go home with the grievance that reasonable opportunity was not granted by the learned Court. By following this principle of law, learned Court shall achieve twin objects namely; (i) it will avoid multiplicity of litigation between the parties, and (ii) it will facilitate the learned Court to arrive at a judicious conclusion with a view to do

complete and substantial justice between the parties. Court is not without any authority or power in this regard. Provisions contained in Section 151 of the Code of Civil Procedure are meant for dealing with such a situation. Under these peculiar facts and circumstances of the case, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned orders and the same deserve to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned orders passed by the learned trial Court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned orders have been found duly supported by sound reasons and the same deserve to be upheld, for this reason as well.

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

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

04.05.2017
vishnu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No