

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3289 of 2017 (O&M)

Date of decision: 08.05.2017

Manjit Kaur

... Petitioner

Vs.

Raj Kumari

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition, at the hands of plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 29.07.2016 (Annexure P-6) and also the order dated 18.01.2017 (Annexure P-9), whereby the defendant was permitted to file a fresh affidavit of her witness Bhag Singh as DW1, changing the date of sale deed from 14.08.2009 to 14.10.2009, vide impugned order dated 29.07.2016 and review application of the petitioner was also dismissed by the learned trial Court, vide impugned order dated 18.01.2017.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that the actual and correct date of sale deed in question was not 14.08.2009, but it was 14.10.2009. The entire examination and cross-examination of DW1 went on the presumption that date of sale deed was 14.08.2009. When this factual mistake came to the notice of the defendant, an application was moved on behalf of the defendant before the learned trial Court, seeking permission to file fresh affidavit of DW1

namely Bhag Singh, pointing out the correct date of sale deed as 14.10.2009. It was this application moved on behalf of the defendant, which was allowed by the learned trial Court, vide impugned order dated 29.07.2016. Petitioner-plaintiff moved an application for seeking review of the abovesaid order dated 29.07.2016, which was also dismissed by the learned trial Court, vide its impugned order dated 18.01.2017.

A bare combined reading of both the impugned orders would show that so far as the correct date of sale deed is concerned, it is admittedly 14.10.2009. It seems that the defendant and her witness DW1 were proceeding on the presumption that date of sale deed was 14.08.2009 and DW1 made his statement in the form of affidavit as well as in cross-examination, presuming the date of sale deed as 14.08.2009, to be the correct date of sale deed. Thus, it becomes crystal clear that the mistake on the part of defendant as well as her counsel and witness was bonafide one. They were not going to gain anything out of making such a statement contrary to the correct date of sale deed, which was 14.10.2009. Further, no prejudice of any kind, whatsoever, was likely to be caused to the plaintiff-petitioner. Having said that, this Court feels no hesitation to conclude that learned trial Court was well within its jurisdiction to pass both the impugned orders and the same deserve to be upheld.

Once the correct date of sale deed was well known to the petitioner-plaintiff as 14.10.2009, it was her duty as well to point it out to the learned trial Court as well as to her opponent litigant-defendant that the correct date of sale deed was 14.10.2009 and not 14.08.2009. Further, petitioner-plaintiff failed to do so, for the reasons best known to her. It seems that the petitioner was trying to take undue benefit of the ignorance or bonafide wrong

impression of the defendant as well as her witness about the correct date of sale deed in question. Under these undisputed and peculiar facts and circumstances, 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. In fact, the impugned orders passed by the learned trial Court 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 since no illegality has been found in the impugned orders passed by the learned trial Court, the same deserve to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No case 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

08.05.2017
vishnu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No