

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR No.3967 of 2015 (O&M)

Date of Decision: 27.09.2017

**Babu Lal**

**... Petitioner**

**Vs.**

**Bhagwanti and another**

**... Respondents**

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

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

Mr. Sandeep Verma, Advocate  
for respondent No.1.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Feeling aggrieved against the order dated 30.05.2015 passed by the learned trial Court, whereby application of the petitioner-plaintiff permitting him to pay ad-valorem Court fee for the land measuring 08 kanals, which was sold along with another piece of land measuring 07 kanals 15 marlas by way of sale deed No.4328/1 dated 13.02.2012, which is subject matter of the suit for declaration filed by the plaintiff, was dismissed, plaintiff has approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that the total land, which was sold by way of sale deed No.4328/1 dated 13.02.2012, was measuring 15

kanals 15 marlas. Out of this land measuring 15 kanals 15 marlas, defendant No.1 Smt. Bhagwanti wife of defendant No.2 has executed sale deed No.391 dated 05.06.2012, selling land measuring 07 kanals 15 marlas in favour of the plaintiff-petitioner. Thus, the land, which remained subject matter of the dispute in the suit for declaration filed by the plaintiff, is only 08 kanals. In such a situation, the learned trial Court could not have directed the plaintiff-petitioner to pay ad-valorem Court fee for the total land measuring 15 kanals 15 marlas. So far as the land measuring 08 kanals is concerned, learned counsel for the petitioner has pointed out that the petitioner-plaintiff is ready to pay the ad-valorem Court fee qua this land measuring 08 marlas. In view of this factual aspect of the matter, the learned trial Court misdirected itself, while passing the impugned order dated 30.05.2015 and the same cannot be sustained.

When confronted with the abovesaid facts and circumstances of the case, learned counsel for the respondents was well justified not to raise any substantive argument in support of the impugned order, because no such argument would be available to the respondents. In this view of the matter, the impugned order passed by the learned trial Court has been found suffering from patent illegality and the same cannot be sustained.

No other argument was raised.

Considering the peculiar facts and circumstances of the case, coupled with the reasons aforementioned, this Court is of the considered view that since the learned trial Court exceeded its jurisdiction, while passing the impugned order, which has been found suffering from patent illegality and perversity, it cannot be sustained. Accordingly, the impugned order dated 30.05.2015 passed by the learned trial Court is hereby set aside.

As prayed on behalf of the petitioner-plaintiff, he is granted six weeks' time from today to pay the ad-valorem Court fee before the learned trial Court qua the land measuring 08 kanals only. Thereafter, the learned trial Court shall proceed further with the matter and decide the suit at an early date, in accordance with law.

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

[ RAMESHWAR SINGH MALIK ]  
JUDGE

27.09.2017  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No