

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CR-4231-2017(O&M)

Date of Decision:03.07.2017

Harjit Singh and others

.....Petitioners

Versus

Nirmal Singh and others

.....Respondents

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

Present: Mr.Rajbir Wasu, Advocate,
for the petitioners.

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition filed under Article 227 of the Constitution of India, at the hands of the defendants, is directed against the order dated 23.12.2016 (Annexure P-11) passed by the learned trial Court, whereby their application under Order 7 Rule 11(d) read with Section 151 of the Code of Civil Procedure (for short “the CPC”) was dismissed.

Heard learned counsel for the petitioners.

It is a matter of record and not in dispute that the learned trial Court, vide its earlier judgment dated 06.08.2014 (Annexure P-5) dismissed the suit of the plaintiffs-respondents only on account of non-impleadment of necessary parties. Similarly, their first appeal was also dismissed by the learned first appellate court for want of necessary parties, while passing the judgment dated 25.09.2015 (Annexure P-7). Under these circumstances, it cannot be said by any stretch of imagination that the earlier judgments were

passed by the learned court of competent jurisdiction on merits of the case.

In this view of the matter, neither the principle of *res judicata* would be available in favour of the petitioners nor provisions of law contained in Order 2 Rule 2 CPC would be attracted in their favour. That is what has been observed by the learned trial Court while passing the impugned order. No doubt, plaintiffs ought to have been more careful but it is also equally true that the plaintiffs cannot be made to suffer for their bonafide mistake, while not impleading all the necessary parties in their earlier round of litigation. Further, plaintiffs-respondents were not going to gain anything while not impleading the necessary parties. In fact, *prima facie* it seems the lapse on the part of the learned counsel who was representing the plaintiffs during earlier round of litigation.

During the course of hearing, learned counsel for the petitioners could not point out any kind of prejudice which might have been caused to the petitioners, while passing the impugned order by the learned trial Court. In the circumstances of the case, the impugned order has not been found suffering from any patent illegality or perversity, 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 order has been found based on sound reasons and 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.

July 03, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No