

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

CR-5086-2015

Date of Decision:04.10.2017

Bala Devi

.....Petitioner

Versus

Mansa Ram and another

.....Respondents

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

Present: Mr.C.B.Goel, Advocate,
for the petitioner.

Mr.N.K.Malhotra, Advocate,
for respondent No.1.

RAMESHWAR SINGH MALIK, J.(Oral)

Instant civil revision petition, filed under Article 227 of the Constitution of India, at the hands of the plaintiff, is directed against the order dated 17.07.2015, whereby an application for permission to produce rebuttal evidence was dismissed by the learned trial court.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that the plaintiff-petitioner did not reserve her right for leading rebuttal evidence during the course she was leading her evidence in affirmative. Once the issues including the onus to prove different issues were well known to the petitioner-plaintiff, she was under obligation to reserve her right under

Order 18 Rule 3 CPC for leading rebuttal evidence in case she was

intending to do so. Despite there being an occasion and reason to do so at the hands of the plaintiff, she did not reserve her right for rebuttal evidence and that too for no good reasons. In such a situation, the learned trial court was well within its jurisdiction to pass the impugned order, dismissing the application of the plaintiff and the same deserves to be upheld.

A bare perusal of the application moved by the plaintiff-petitioner vide Annexure P-1 at page 7 of the paper-book would show that no purpose whatsoever was pointed out in the said application as to why another witness was sought to be examined in rebuttal evidence. Learned trial court has rightly observed so while passing the impugned order. As noticed by the learned trial court that the Will was challenged by the plaintiff-petitioner herself in the suit for declaration and permanent injunction. It was all the more a strong reason for the plaintiff to reserve her right under Order 18 Rule 3 CPC for leading rebuttal evidence but she again failed to do so, for the reasons best known to her. It has also been rightly recorded by the learned trial court that the plaintiff took more than three years' time to conclude her evidence. Repeated applications came to be filed by the plaintiff-petitioner because of which the learned trial court has rightly recorded that the petitioner was delaying the proceedings. Further, once all the facts were well known to the petitioner including the contents of the Will and the attesting witnesses thereto, she could have examined the attesting witnesses or any other witness while leading her evidence in affirmative. Under these circumstances of the case, it can be safely concluded that the learned trial court committed no error of law, while passing the impugned order and the same deserves 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 order 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 order has been found based on sound reasons and the same deserves 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 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.

October 04, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No