

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.5018 of 2017(O&M)

Date of Decision:31.07.2017

Ved Parkash

...Petitioner

Versus

Pawan Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hardeep Singh Dhillon, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff is in revision petition against the order passed by the learned trial Court deciding the application under Order 8 Rule 1-A CPC.

The plaintiff had filed an application for issuing of direction to the defendants to produce the original Will and alleged original sale deed in the Court.

Learned trial Court after seeking reply to the application has passed the order dated 18.07.2017. The operative part of the order reads as under:

“From bare perusal of this provision, it is clear that law does not require the original documents to be attached with the written statement. The respondents have already supplied all the documents on the file and are ready and willing to supply when it is required by the Court in further

proceedings of the case.

On perusal of the documents as well as after hearing the arguments advanced by the learned counsel for both the parties, this court is of the considered opinion that in the present case, the respondents have already supplied the copy of the will on which he based his claims and therefore there is no requirement to produce the original will on the file at this stage. The application in hand is dismissed being non-maintainable as the respondents have supplied the copy of the documents on which he relies his claim and are ready to produce the original will and registry.”

A reading of the order would show that the Court has specifically recorded that the defendants have already placed all the documents on the file. Learned Court has further held that there is no requirement of filing the original documents.

Learned counsel for the petitioner has submitted that on 18.07.2017, the Court had passed two contradictory orders. He refers to zimni/daily order, which is extracted as under:

“Arguments heard. Vide separate detailed order of even date, the application under Order 8 Rule 1-A read with Section 151 of CPC is hereby allowed.

Now, the case is adjourned to 3.8.2017 for filing of replication, admission and denial of documents, possibility of settlement between the parties through ADR otherwise for

framing of issues”

He further refers to the impugned order passed by the Court dismissing the application. Learned counsel for the petitioner contends that once the application was allowed, there was no reason for the Court to dismiss the application filed by the plaintiff.

I have heard the learned counsel for the petitioner and gone through the paperbook.

There appears to be a typographical error in the zimni (daily order). The learned trial Court had passed a detailed order on 18.07.2017 dismissing application filed by the plaintiff. Therefore, the plaintiff/petitioner cannot take advantage of the small typographical error.

Learned trial Court has further recorded that the copies of documents relied upon by the respondents have already been produced.

In my considered opinion, once the photocopies of the documents are already part of the file, application under Order 8 Rule 1-A CPC should not have been filed.

For the reasons recorded above, the revision petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

31.07.2017
sk

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No