

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5254 of 2014 (O&M)
Date of decision: 30.08.2017

M/s Heritage Universal Projects Pvt. Ltd.

... Petitioner

Vs.

Lakha Singh @ Lakhinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Gill, Advocate
for the petitioner.

Mr. Anil Chawla, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 31.03.2014 (Annexure P-13) passed by the learned trial Court, whereby application under Section 65 of the Indian Evidence Act (for short 'the Act') moved by the plaintiff for leading secondary evidence qua agreement to sell dated 18.06.2005, receipt dated 20.11.2005 and attendance application dated 20.11.2006, by producing photocopies thereof, was partly allowed qua agreement to sell only, 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.

A bare perusal of the impugned order would show that the

application moved by the petitioner-plaintiff under Section 65 of the Act was partly allowed qua agreement to sell dated 18.06.2005, for the reason that existence of this document was admitted by defendants No.1 and 2. Once existence of this document was admitted by the contesting defendants, the learned trial Court rightly permitted the plaintiff-petitioner to prove agreement to sell by leading secondary evidence with the help of photocopy thereof. Regarding remaining documents i.e. receipt and attendance application, very existence of both these documents was strongly denied by the defendants. Further, the plaintiff failed to prove loss of these two original documents. Once the very existence and loss of original documents was not proved by the plaintiff-petitioner, the learned trial Court was well within its jurisdiction to partly allow the application of the plaintiff, by passing the impugned order and the same deserves to be upheld.

When learned counsel for the petitioner was confronted as to what was the difficulty in summoning the relevant record of Sub Registrar by the plaintiff, while leading his evidence in affirmative, so as to prove his presence in the office of Sub Registrar on the target date, he had no answer and rightly so, it being a matter of record. As noticed hereinabove, once the plaintiff failed to prove existence and loss of original documents, the learned trial Court committed no error of law, while passing the impugned order, declining the prayer of the petitioner qua remaining two documents i.e. receipt and attendance application and the impugned order deserves to be upheld, for this reason also.

Admittedly, the suit is at the argument stage. Much water has flown after passing of the impugned order. The clock cannot be put back. It is

for the plaintiff-petitioner to prove its pleaded case. However, without commenting anything further on merits of the case, lest it may cause any prejudice to interest of either of the parties, this Court is of the considered view that no fault can be found with the impugned order passed by the learned trial Court and the same deserves to be upheld, for this reason as well.

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.

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 order passed by the learned trial Court, the same deserves to be upheld. Present revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

30.08.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No