

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6116 of 2017 (O&M)
Date of decision: 11.09.2017

Onkar Singh

... Petitioner

Vs.

Baljit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. H.S. Jugait, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present civil revision petition, at the hands of defendant No.3, filed under Article 227 of the Constitution of India, is directed against the order dated 24.08.2017 (Annexure P-1), whereby his application under Order 7 Rule 11 of the Code of Civil Procedure (for short 'CPC') was dismissed, having been found contrary to the stand taken in the written statement.

Heard learned counsel for the petitioner.

When the plaintiff filed the suit for declaration about the suit land, petitioner-defendant was put to notice along with other defendants. Petitioner filed his written statement. Thereafter, taking a contradictory stand, an application under Order 7 Rule 11 CPC was filed by the petitioner-defendant No.3. A bare perusal of the impugned order would show that the learned trial Court proceeded on a factually correct and legally justified

approach, while passing the impugned order, observing that defendant No.3 was conveniently silent in this regard at the time of filing his written statement. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

Admittedly, petitioner is defendant No.3 and brother of the plaintiff-respondent No.1. Being so closely related with the plaintiff, defendant-petitioner was well aware about the facts of the case right from day one. Despite having complete knowledge in this regard, defendant-petitioner did not raise the issue in his written statement, which later on was sought to be raised by him in his application under Order 7 Rule 11 CPC. Thus, it has become crystal clear that the stand taken by the defendant-petitioner in his written statement as well as in his application under Order 7 Rule 11 CPC was not the same but self-contradictory. In such a situation, the learned trial Court rightly examined, considered and appreciated true facts of the case, before 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 patent illegality or perversity in the impugned order, 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 passed by the learned trial Court 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 since no illegality or perversity has been found in the impugned order, the same deserves to be upheld. The 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, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

11.09.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No