

CR No. 6187 of 2017 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 6187 of 2017 (O&M)

Date of Decision: 13.9.2017

Jatinder Singh

.....Petitioner

Vs.

Kuldeep Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. J.S. Lalli, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the order dated 10.8.2017 (Annexure P-3) passed by the learned trial court, whereby his application for leading additional evidence was dismissed, plaintiff has approached this court by way of present revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

Cogent reasons recorded by the learned trial court in para 3 of the impugned order, which deserves to be noticed here, read as under:-

“I have heard ex parte consideration of the Ld. Counsel for the plaintiff on the present application and also perused the case file thoroughly. It is contended by the Counsel for the plaintiff that the suit property is ancestral property and appointment of Sadar Kanungo for the purpose of preparing the excerpt of the suit property. Heard. Perusal of the judicial file

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shows that the case was fixed for ex parte plaintiff evidence since 21.9.2015. Thereafter, more than 25 opportunities were availed by the plaintiff for concluding his evidence. It is relevant to mention here that the plaintiff evidence was closed by order after giving numerous opportunities to the plaintiff to conclude his evidence. Moreover, the counsel for the plaintiff has also sought one adjournment for addressing his final arguments. No such plea of additional evidence was taken earlier by the plaintiff. The fact regarding the nature of suit property alleged to be ancestral property was in the knowledge of the plaintiff since the very filing of the suit. The conduct of the plaintiff is noteworthy here. In case such applications are allowed, there would be no end to the litigation. It was for the plaintiff to show his diligence as to why the said evidence was not produced earlier by the plaintiff. In the considered opinion of this court present application deserves to be dismissed.”

When the learned counsel for petitioner was confronted as to how 25 opportunities were not sufficient for the plaintiff-petitioner to conclude his evidence and also as to why he did not challenge the order passed by the learned trial court closing the evidence of plaintiff, he had no answer and rightly so, it being a matter of record. In fact, after passing the order by the learned trial court closing the evidence of the plaintiff, learned counsel for the plaintiff before the learned trial court sought and was granted an adjournment for his final arguments. At that stage, no such plea of additional evidence was sought to be raised on behalf of the plaintiff.

It is also pertinent to note here that plaintiff-petitioner started leading his ex parte evidence as far back as on 21.9.2015. A period of about two years was consumed by the plaintiff-petitioner in concluding his ex parte evidence in spite of the fact that there was nobody to cross-examine his

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witnesses. It shows that plaintiff-petitioner was trying to misuse the process of law which cannot be permitted. Having said that, this Court feels no hesitation to conclude that learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioner could not point out any 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. In fact, the impugned order has been found duly supported by 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 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 abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

13.9.2017
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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