

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

258

CR-6909-2016(O&M)

Date of Decision:23.05.2017

Sumer Singh

.....Petitioner

Versus

Asha Ram and others

.....Respondents

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

Present: Mr.Vishwajeet Singh, Advocate,
for the petitioner.

Mr.Aditya Jain, Advocate,
for the respondents.

RAMESHWAR SINGH MALIK, J.(Oral)

Present revision petition, at the hands of plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 10.08.2016 passed by the learned trial Court, whereby application moved by the plaintiff for additional evidence was dismissed.

Notice of motion was issued, subject to payment of ₹5,000/- which has been deposited by the petitioner with the Registry of this Court.

Heard learned counsel for the parties.

A bare perusal of the impugned order passed by the learned trial Court would show that the plaintiff-petitioner was seeking to tender only the documentary evidence in the form of jamabandies and mutation No.7831, which could not be tendered in evidence, while the plaintiff was leading his evidence in affirmative, as is apparent, due to the bonafide mistake on the part of learned counsel for the plaintiff-petitioner. Since the

documentary evidence sought to be produced by the plaintiff-petitioner by way of additional evidence or in the rebuttal is coming from proper custody and based on official record, there is no scope of any fabrication.

Further, defendants-respondents shall not be surprised as the documents are pertaining to the revenue record relating to the suit property. Presumption of truth would be attached to the revenue entries, as per the provisions of law contained under Section 44 of the Punjab Land Revenue Act. These documents will also be necessary for disposal of the suit and shall facilitate the learned trial Court to arrive at a judicious conclusion, with a view to render an effective judgment between the parties.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Courts of law must make an endeavour to grant sufficient opportunity to both the parties to the litigation to put-up their best case before the Court. Nobody should be forced to go home with the grievance that reasonable opportunity was not granted. While following the abovesaid principle of law, the learned Court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned Court will be in a much better position to do complete and substantial justice between the parties. However, in the case in hand, since the learned trial Court could not appreciate the abovesaid principle of law in correct perspective, while passing the impugned order and the same cannot be sustained, 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 opinion that since the impugned order has been found suffering from patent illegality, the same cannot be sustained. Accordingly, impugned order dated 10.08.2016 passed by the learned trial Court is hereby set aside. Plaintiff-petitioner shall be granted one opportunity to tender his above-said documentary evidence but only in the form of certified copies of jamabandies and mutation in his rebuttal, subject to payment of above-said ₹5,000/- as costs. Thereafter, the learned trial Court shall proceed further with the matter to decide it at an early date, however, in accordance with law.

The amount of ₹5,000/- deposited by the petitioner, in compliance of the order dated 18.10.2016 passed by this Court, is ordered to be paid to the learned counsel for the respondents before this Court against proper receipt.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

May 23, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No