

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

231

CR-6872 of 2014 (O&M)

Santosh and others

.....Petitioners

Versus

Ghan Shyam Dass and others

.....Respondents

(2)

CR-6873 of 2014 (O&M)

Santosh and others

.....Petitioners

Versus

Ghan Shyam Dass and others

.....Respondents

Date of Decision:11.09.2017

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

Present: Mr.Amit Kashyap, Advocate,
for Dr.Parveen Hans, Advocate,
for the petitioners.

Mr.C.B.Goel, Advocate,
for respondent Nos.1 to 4.

Mr.Jagjeet Beniwal, Advocate,
for respondent No.5.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the orders dated 30.07.2014
(Annexure P-2) and dated 11.08.2014 (Annexure P-3) passed by the learned
trial court, whereby issues were re-framed, removing the ambiguity in the
proceedings taken at an earlier point of time, defendants have approached
this Court, by way of these two identical revision petitions, filed under

Article 227 of the Constitution of India, for setting aside the impugned orders passed by the learned trial court in two separately filed suits for recovery, which were consolidated and were being tried together.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare combined reading of both the impugned orders (Annexures P-2 and P-3) will make it crystal clear that since there are two identical suits between the same parties and both the suits for recovery, which were being tried together having been consolidated, some inadvertent mistakes had crept in at the hands of learned trial court and also because of counsel for the plaintiffs, which were sought to be rectified by the learned trial court by passing these two impugned orders, with a view to put the record straight.

Further, after re-framing the issues, the learned trial court when granted opportunity to the plaintiffs-respondents herein to lead their evidence on the issues re-framed, defendants have challenged both these orders by way of review applications for recalling the abovesaid orders dated 30.07.2014 and 11.08.2014 (Annexures P-2 & P-3). However, those review applications were dismissed by the learned trial court vide its common order dated 17.09.2014 (Annexure P-4). In fact, by passing all these three impugned orders (Annexures P-2, P-3 & P-4), no prejudice of any kind, whatsoever, has been caused to the petitioners because the learned trial court was well within its jurisdiction to pass the impugned orders and the same deserve to be upheld.

It seems that the learned counsel for the plaintiffs could not bring true facts of both the consolidated suits for recovery before the

learned trial court when both the suits were being tried together. It was this reason that some factual error took place at the time of passing zimni orders by the learned trial court, which were sought to be rectified and rightly so because had these mistakes not been rectified, at this stage, the same would have far-reaching consequences causing serious prejudice to both the parties. In this view of the matter, no fault can be found with the impugned orders passed by the learned trial court, which were intended to put the judicial record straight, thus, the impugned orders deserve to be upheld, for this reason also.

Once the issues have been re-framed, it is not only the plaintiffs who would be entitled to lead their evidence as per the re-framed issues but even the defendants-petitioners shall also be entitled to lead their evidence, if any required. Further, rules of procedure are meant for advancing the cause of justice. This Court is of the considered view that passing of all the three impugned orders will finally facilitate the learned trial court to arrive at a judicious conclusion, so as to do substantial justice between the parties and the impugned orders deserve to be upheld, for this reason as well.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned orders 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. In fact, the impugned order has been found based on sound reasons.

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 the present revision petitions are misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, instant revision petitions stand dismissed, however, with no order as to costs.

September 11, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No