

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-7712-2011 (O&M)

Date of Decision:04.09.2017

Jagdish Goel

.....Petitioner

Versus

Raj Kumar Bhandari and others

.....Respondents

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

Present: Mr.Vikas Mohan Gupta, Advocate,
for the petitioner.

None for the respondents.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 26.09.2011 passed by the learned trial court, keeping the objections of defendant No.2 against exhibiting the documents open, to be decided at the time of final arguments, defendant No.2 has approached this Court, by way of instant civil revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued but nobody has come present on behalf of the respondents.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order and particularly operative part thereof will make it crystal clear that the objections raised by defendant No.2 were left open to be decided at the time of final arguments. Relevant part of the impugned order, reads as under:-

through the settled provisions of law of evidence and I am of the considered view that mere marking the document as an exhibit does not absolve from the duty of party to prove the same as per settled provisions of law. PW-3 Raj Kumar tendered his affidavit in examination in chief on 17.8.2009 and in his evidence documents were marked as exhibits and case was fixed for cross-examination of witness. Proceedings are holding up after filing of the application by the defendant for de-exhibiting the documents, for more than two years. Even the defendant has right to raise objection before starting the cross-examination about the marking of documents as exhibits. So, I do not find any merits in the present application for de-exhibiting the documents. So, this application is hereby dismissed. However, objection raised by the defendant stands there and can be decided at the time of final arguments giving detailed reasoning. Now to come up on 16.10.2011 for cross-examination of the plaintiff.”

Since, further proceedings before the learned trial court were not stayed by this Court, learned counsel for the petitioner has fairly stated before this Court that the suit is now fixed for rebuttal and final arguments. In this view of the matter, once the stage of final arguments had already reached, it goes without saying that the learned trial court shall decide the abovesaid objections raised by defendant No.2 before passing the final judgment. Prior decision on the objections raised by the petitioner, before passing final judgment, shall redress the grievance of the petitioner. 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.

During the course of hearing, learned counsel for the petitioner

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 opinion that since no prejudice is going to be caused to the petitioner, particularly keeping in view the present stage of the case, which is now at the final arguments, impugned order deserves to be upheld.

However, before parting with the order, it is directed that the learned trial court shall first decide the objections raised by the petitioner, in compliance of its impugned order dated 26.09.2011 and thereafter the final judgment shall be passed by the learned trial court.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands disposed of.

September 04, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No