

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

CR No.8422 of 2016
Date of decision :27.09.2017

Ashok Kumar

...Petitioner

Versus

Sharda Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lekh Raj Sharma, Advocate
for the petitioner.

Mr. Sandeep Singh Ghangas, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (Oral)

Defendant No.1-petitioner is in revision petition against order passed by learned First Appellate Court dismissing the application under Section 73 of the Evidence Act.

Plaintiff-respondent No.1-Sharda Rani had filed a suit claiming declaration and mandatory injunction with respect to the property i.e. plot No.1557/P, Sector-25, Part II, HUDA. The aforesaid suit was decreed in favour of Sharda Rani.

Defendant No.1 filed an appeal against the aforesaid judgment and decree. During the pendency of the appeal, defendant No.1 filed an application under Section 73 of the Evidence Act. No application was filed under Order 41 Rule 27 CPC. The application under Section 73 of the Evidence Act was dismissed by the Court vide order dated 03.11.2016. The Court has given detailed reasons as to why this application cannot be entertained at this stage. The Court has also relied upon the admission made by the petitioner in cross-examination.

In the appeal, the parties are not entitled to lead evidence as a matter of right. Parties can only file an application for permission to lead additional evidence after fulfilling the requirements of Order 41 Rule 27 CPC. In this case, no application under Order 41 Rule 27 CPC was filed.

In view thereof, I do not find any good ground to interfere with the impugned order passed by the learned First Appellate Court.

Hence, the present revision petition is dismissed.

27.09.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No