

In the High Court of Punjab and Haryana at Chandigarh

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CR No.907 of 2015

Date of decision: 11.7.2017

RAJESHWARI DEVI & ORS

.....petitioner

Versus

SHAKUNTALA DEVI

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Umesh Kumar Kanwar, Advocate,
for the petitioners.

Mr.S.K.Yadav, Advocate
for the respondent.

Raj Mohan Singh, J.(oral)

This revision petition has been filed challenging order dated 12.1.2015 passed by the Additional Civil Judge (Sr.Divn.), Mahendergarh, whereby application filed by the petitioners under Order 11 Rule 14 read with Section 151 CPC was dismissed.

In a suit for declaration and permanent injunction filed by the plaintiffs, issues were framed on 3.8.2010 and, thereafter, case was fixed for evidence of the plaintiffs. Plaintiffs were granted last opportunity to lead evidence on 15.12.2012. On the said date, application was filed by the plaintiffs under Order 11

Rule 14 CPC seeking to summon original sale deed No.359 dated 13.5.2008, which was in possession of the defendant. It was alleged that the original sale deed was required to be produced along with the written statement in order to put the same to the witnesses for proving it to be forged and fabricated on the basis of photographs appearing on the sale deed. Plaintiffs in their evidence have already summoned concerned clerk of the office of Sub Registrar along with relevant record pertaining to the sale deed, carrying photographs of the parties and witnesses thereon. Aforesaid application, filed by the plaintiffs, was dismissed by the trial Court on 10.4.2013.

The present application was filed on 8.1.2015, on the same cause of action except the stage of the suit i.e. during pendency of defendant's evidence. The application has been rejected by the trial Court on the same premise that the original sale deed had already been produced by the witnesses from the office of Sub Registrar. Trial Court was of the view that the plaintiffs are only interested in protracting the trial and the second application for the same relief is not maintainable.

I have considered the submissions made by learned counsel for the parties.

Evidently, issues were framed on 3.8.2010 and the plaintiffs filed the first application under Order 11 Rule 14 CPC only when last opportunity for plaintiffs' evidence was granted

for 15.12.2012. Plaintiffs had already summoned the concerned clerk from the office of Sub Registrar along with relevant record. Having availed the process of summoning and after dismissal of first application on the same relief, the second application on the same cause of action cannot be allowed.

In view of above, this revision is found to be totally bereft of merits and the same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

July 11, 2017
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Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No