

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.1083 of 2018(O&M)
Date of Decision: 10.05.2018

Onkar Singh

.... Petitioner

Versus

Inder Singh & anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Abhimanyu Singh, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Article 227 of the Constitution of India, petitioner has laid challenge to order dated 25.01.2018(Annexure P-5) of the trial Court, whereby his application for permitting him to lead additional evidence has been dismissed.

In nutshell, respondent No.1-plaintiff, claiming himself to be owner of the suit land filed a suit for possession against the petitioner and one Ajay son of Meena (proforma respondent No.2).

After holding trial, the learned trial court dismissed the suit vide judgment and decree dated 24.02.2015 (Annexure P-1).

Being aggrieved, respondent No.1-plaintiff approached the First Appellate Court, which, after hearing both the sides, remanded the case back, setting aside judgment and decree aforesaid for its decision afresh after getting the suit land demarcated in accordance with standing order No.2/relevant rules of the Financial Commissioner.

After remand, the petitioner moved application for leading additional evidence on the ground that he has purchased small portion of the suit land

measuring 2 marlas during pendency of the suit from one co-sharer Narender Singh and thus, he had become co-sharer in the suit land.

Learned trial Court, after hearing both the sides, dismissed the application vide impugned order (Annexure P-5), relevant portion of which reads as under:-

“It is the case of the applicant/defendant that the documents are relevant, on the ground that now applicant had become co-sharer/co-owner in the suit property. So, want to produce the sale deed, jamabandi mutation in additional evidence. For the sake of arguments/discussion if a private individual purchases a joint property, from one of the co-sharer, then the subsequent purchaser do not become a co-sharer with the same right of his vendor and being subsequent purchaser had only right/remedy to file suit for partition of the joint holding out of which purchased share. Further out of the joint property one of the co-sharer who had sold part of suit property, cannot transfer possession of any part of the joint holding unless he was having exclusive possession over the part transferred and the said exclusive possession was also incorporated in the revenue records. In the case in hand no such facts has been found. As per directions of learned Appellate Court case was remanded back with the observations that suit land be demarcated afresh as per the guidelines of the Financial Commissioner relevant Rules and decide the matter thereupon afresh. Keeping in view the discussion above, application under consideration is hereby dismissed being devoid of merits.”

The only argument raised by learned counsel for the petitioner is

that since the petitioner has become a co-sharer in the suit land, therefore, he may be permitted to lead additional evidence for proving the sale deed in his favour. The submission so made by learned counsel for the petitioner has already been dealt with by learned trial Court, therefore, the same needs not be gone into again, more particularly, when the impugned order is perfectly legal.

Learned counsel for the petitioner has not been able to point out any infirmity in the above findings of the trial Court.

In view of discussion made above, the petition fails and is dismissed.

10.05.2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No