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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1988-2016 (O&M)

Date of decision : 23.02.2018

Sohan Singh Bagha @ Sohan Lal

... Petitioner(s)

Versus

Gurmeet Kaur and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. Sandeep Arora, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order dated 02.03.2016 (Annexure P-6), whereby an application moved by the plaintiff for bringing on record the copy of the Passport in a suit challenging the General Power of Attorney dated 04.12.1989 and sale deed dated 07.04.1992 executed by defendant Nos.1 & 2 in favour of defendant Nos.5 & 6, has been dismissed.

Mr. Rajiv Joshi, learned counsel appearing on behalf of the petitioner submits that the petitioner-plaintiffs instituted the suit claiming to be joint owner and in joint possession to the extent of 2/3rd share in the suit land with a declaration by challenging the aforementioned GPA and sale deed, on the premise that the plaintiffs were abroad at the time, when the GPA and the sale deed were executed. Plaintiff No.1, while staying in

United Kingdom had changed his name and another passport was issued. However, only one passport having his old name had been brought on record, but not new one. Both the passports are essential and necessary for the adjudication, because it would prove that plaintiff No.1 was not present at the time of the execution of the GPA and sale deed as there is allegation of forgery, but the Court below has committed illegality and perversity in dismissing the application, thus, urges this Court for setting aside the impugned order, under challenge.

Learned counsel for respondent No.1 submits that the aforementioned evidence would tantamount to filling up lacuna as the plaintiffs had already availed the remedy of leading evidence in affirmative and there is no rebuttal issue, even the application is bereft of the reasoning as to how and under what circumstances, the passport would be necessary and on account of the aforementioned fact, the application has rightly been dismissed, which should not be allowed and prays for dismissal of the present revision petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the filing of the suit on the ground stated above is not in dispute. The GPA is dated 04.12.1989. Concededly, petitioner/plaintiff No.1 had already brought on record the passport, but other passport issued by the Government of United Kingdom had not been brought on record, which would enable the Court to form an opinion that as to whether the plaintiff at the time of the execution and registration of the GPA and Sale deed, was present or not. In my view, the aforementioned evidence is essential and necessary for the adjudication of the *lis*, which the Court ought to have taken into consideration, while adverting to the

arguments of the parties, but not in the manner and mode. Though there has been a delay in moving the application, that can always be taken care of by some compensation.

For the foregoing reasons, the impugned order, under challenge is not sustainable in the eyes of law and the same is hereby set aside subject to the payment of cost of ₹10,000/- which shall be condition precedent.

The present revision petition stands allowed.

23.02.2018	(AMIT RAWAL)
Yogesh Sharma	JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No