

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2213 of 2018

Date of Decision:17.04.2018

Sukhjit Kaur

...Petitioner

Versus

Sukhdev Kaur (since deceased) through LR and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.P.S.Khurana, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in the revision petition against the order dated 14.3.2018 passed by the learned trial court, directing the Special Kanungo to prepare pedigree table and produce the same in the court. He was also directed to remain present on the next date.

In the present case, the plaintiff-petitioner filed an application for appointment of Special Kanungo for preparing excerpt. The application was allowed vide order dated 10.4.2017. Plaintiff filed another application on 8.9.2017 for issuing directions to the Special Kanungo to provide specific information with regard to various aspects. The learned court on 19.9.2017 passed the order, which reads as under:-

“Special Kanungo has to specify the pedigree of four generations and development of the properties in these generation the special Kanungo has to specially disclose that if any alienation/devolvement/transfer was made then what was the specification of that alienation/development/transfer and vide which document/deed the same was alienated/devolved. As per chapter IX volume I of Rule 5(ii) High Court Rules and Orders, if the application is allowed and the point on which

information is required, and if this condition is not fulfilled they will be liable to be returned for amendment and they be supplemented or corrected by the court and in the present case the special Kanungo has not supplied information which are necessary to adjudicate the matter in dispute as the Kanungo has to specify that what was the nature of alienation/development/transfer within four generations and specification of alienation/transfer/development of property and further the modes of alienation/transfer/development alongwith pedigree table.”

The excerpt as prepared by the Special Kanungo was produced in the court. Thereafter a fresh application was filed by the plaintiff, requesting for direction to the Special Kanungo to provide details of alienation and balance land in the hands of the defendants. It was asserted that excerpt is incomplete. It was further prayed that pedigree of fourth generation has not been submitted.

The learned trial court after considering various aspects of the matter allowed the application only directing special kanungo to prepare pedigree table.

Learned counsel for the petitioner has vehemently argued that since the excerpt prepared does not contain complete information, therefore, the learned trial court has committed an error in refusing to issue directions. He has further submitted that once the learned trial court had appointed Special Kanungo to prepare excerpt and thereafter issued directions subsequently, the learned trial court was bound to ensure that the excerpt prepared contains complete particulars.

This Court has framed rules for utilization of services of Special Kanungo or Patwari Moharer. These are provided under Chapter I of Volume 1 of High Court Rules and Orders.

A careful reading of the aforesaid rules provides that if an application is moved to the court for services of Special Kanungo or Moharer, such application must state clearly the point on which the information is required. Excerpt is only a summary or conclusion drawn by the Special Kanungo or Patwari Moharer after examination of the revenue record. Special Kanungo/Moharer is further required to be examined in the court along with all records in original.

In the present case, the learned trial court has passed order on two occasions, firstly on 10.4.2017 and thereafter on 19.9.2017. The excerpt as required has been prepared and submitted in the court. The court has noticed that duty of the special kanungo is to give report and adjudication is to be done by the court. The court has further noticed that it is for the party to lead evidence to support the case set up by it. A Special Kanungo is nominated only with a purpose to help the party in getting the excerpt prepared for the purpose of producing the same in evidence. The court cannot be expected to collect each and every evidence on behalf of party to the suit. In the present case, the court has held that Special Kanungo has already complied with the directions.

This Court does not find any force in the submission of learned counsel for the plaintiff-petitioner that the Special Kanungo must provide all information as is required from time to time.

As noticed earlier, excerpt is only a summary of the revenue record examined by the Special Kanungo. In any case the revenue official is required to bring the documents in original, while proving the excerpt. If the plaintiff wishes to produce on the file some other evidence or wants any clarification or additional information from the Special Kanungo, he can

directly request him. It is for the parties to produce evidence in support of its case.

In view thereof, there is no scope for interference. Revision petition is dismissed. Pending application(s), if any, shall also stand disposed of.

17.04.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No