

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-2260-2018

Date of decision : 31.07.2018

Birender Singh

... Petitioner

Versus

Kedar Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Manoj K.Tanwar, Advocate
for the petitioner.

Mr.Mukesh Yadav, Advocate
for the respondents.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner challenges the order of the learned Civil Judge (Jr. Div.), Mahendergarh, dated 21.02.2018, by which his application filed under Order 6 Rule 17 read with Section 151 of the CPC was dismissed, the amendment sought by the petitioner-plaintiff being that the date given on the agreement for sale in question (which both the parties are *ad idem* had been duly exhibited before that Court) be seen to be carrying a date of 31.08.2009 and not 01.09.2009.

The ground for dismissal, as per the impugned order, is that, firstly, the plaintiff had already “mentioned the date of agreement to sell as 01.09.2009”, and further, that after availing several effective opportunities he himself closed the evidence on 08.08.2017, with therefore, as per that Court, a *de novo* trial virtually asked for to be commenced if the amendment were to be allowed.

petitioner would not lead any evidence, but only wishes that the agreement of sale in question be taken to be dated 31.08.2009, it having been attested by the Notary Public on that date, even as per the testimony of the said witness (Notary Public), and the date shown on the second page of the agreement (Annexure P-2 herewith) also being 31.08.2009 (shown to be written below the serial number of the entry in the register of the Notary Public), learned counsel for the respondents on the other has pointed to the testimony of the Notary Public, i.e. PW-1 (Annexure P-3), to submit that what the said witness had actually stated was as follows:-

“I attested this agreement of dated 01.09.2009 on 31.08.2009.”

Thus he had stated that he had attested the agreement dated 01.09.2009 one day prior thereto.

In view of the above, this petition is disposed of simply with a direction to the trial Court, that while adjudicating upon the matter, it would (naturally) take into consideration the fact that both the aforesaid dates are shown in the agreement of sale, and then come to its own conclusion as regards the relief claimed in the suit, as per the evidence led before that Court.

(AMOL RATTAN SINGH)
JUDGE

July 31, 2018.

D.K./dinesh

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No