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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****C.R. No.4584 of 2016
Date of Decision: 25.04.2018**

Santosh Kumari @ Sokho and another

.....Petitioners

Versus

Darshan Singh (since deceased) through LR's

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPALPresent:- Mr. T.P.S. Bhati, Advocate
for the petitioner(s).Mr. Rajiv Joshi, Advocate
for the respondent(s).**ANIL KSHETARPAL J.(ORAL)**

The defendants-petitioners are in the revision petition against the order passed by learned Trial Court, dismissing the application for amendment of the written statement so as to plead about the purchase of the property by father of defendant No.1 vide registered sale-deed dated 30.10.1965. The Court has dismissed the application on the ground that the trial has commenced and the parties have already led their evidence.

I have heard the learned counsel for the parties and with their able assistance gone through the paper-book.

In the original written statement, defendants had pleaded that the suit property was originally owned by Madho Ram, of course the registered sale-deed dated 30.10.1965 has not been pleaded.

As per Order 6 Rule 2 CPC, only concise facts are to be pleaded

and not the evidence. However, it is also true that some time the Courts refused to consider the evidence on the ground that the evidence is beyond pleadings.

Taking into consideration the fact that ownership of Madho Ram had already been pleaded, this Court is of the considered view that the original sale-deed was only required to be produced in evidence.

Learned counsel for the respondent-plaintiff has submitted that the sale-deed dated 30.10.1965 does not pertain to the property in dispute, however this argument would be open to the plaintiff before the Trial Court.

Keeping in view the totality of the facts available on the file, this Court is of the view that the interest of justice would be met if the defendant is permitted to produce the original sale-deed dated 30.10.1965 in evidence. The plaintiff would be granted opportunity to lead any evidence to rebut the sale-deed, if any. This Court has adopted this course so as to ensure the speedy disposal of the case and to avoid the de novo trial.

In view of the above, the present revision is disposed of.

(ANIL KSHETARPAL)
JUDGE

April 25, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No