

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 115

CR-4636-2018 (O&M)

Date of decision : 27.07.2018

Lakhwinder Singh

..... Petitioner

VERSUS

Jasvir Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. S. S. Salar, Advocate, for the petitioner.

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DEEPAK SIBAL, J. (ORAL)

Through the present petition, challenge is made to the order dated 07.07.2018, passed by the Civil Judge (Junior Division), Malerkotla (for short, the Trial Court), through which the application filed by the petitioner/defendant for leading additional evidence has been dismissed.

The facts in brief, which are required to be noticed for adjudicating upon the present petition are that on 22.04.1998 a suit was instituted by Charan Singh, predecessor-in-interest of the petitioner, seeking therein specific performance of agreement dated 27.11.1995, the date of execution of which was extended through endorsements dated 02.09.1996 and 19.11.1996. The aforesaid suit was decreed on 31.10.2002.

In the year 2013, respondent No. 1 filed the instant suit seeking therein a declaration to the effect that judgment and decree dated 31.10.2002 was collusive. Agreement to sell dated 27.11.1995 on the basis of which the decree dated 31.10.2002 was passed was also challenged on the ground that the same was a result of fraud etc. Declaration was also

sought to the effect that the sale deed executed on the basis of the aforesaid decree dated 31.10.2002 was null and void. After the petitioner and other defendants had put in appearance and filed their written statement, the Trial Court framed the issues on which both the parties led and concluded their evidence. At the time when the matter was listed for final arguments, the petitioner and other defendants to the suit filed an application seeking to place on record the aforesaid endorsements dated 02.09.1996 and 19.11.1996 as additional evidence which was declined through the order under challenge.

Learned counsel for the petitioner submits that the petitioner was not granted adequate opportunities by the Trial Court as only four months were granted to him to complete his entire evidence. Therefore, learned counsel for the petitioner submits that subject to payments of costs, at least one opportunity may be granted to the petitioner to lead additional evidence.

On consideration of the submissions made by learned counsel for the petitioner, no merit is found in the same.

It is not disputed that the application to place on record additional evidence was filed by the petitioner and other defendants after both the plaintiff/respondent No. 1 as also the petitioner/defendants to the suit had concluded their entire evidence and that the matter had been posted for final arguments. It is further not denied that the documents sought to be placed on the record by way of additional evidence were the same documents on the basis of which Charan Singh, predecessor-in-interest of the petitioner, had filed a suit way back in the year 1998, leading to the

passing of the judgment and decree dated 31.10.2002 which has been challenged through the instant suit. The documents which are sought to be placed on the record as additional evidence find categorical reference in the aforesaid judgment and decree dated 31.10.2002. There can hardly be any dispute that from the time when the petitioner and other defendants were served in the instant suit they were very well aware with regard to the existence of these documents. Learned counsel for the petitioner also admits to that fact. That being so, even after availing of as many as ten opportunities these documents were not produced by the petitioner. When the matter was listed for final arguments, the petitioner and other defendants cannot be allowed to lead additional evidence by placing on record the documents which they were admittedly aware of even before the suit had been filed. It appears that the application was filed by the petitioner and other defendants only to delay the proceedings which cannot be permitted.

In view of the above, no merit is found in the present petition.

Dismissed.

27.07.2018

shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No