

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 117

CR-5207-2018 (O&M)

Date of decision : 14.08.2018

Balbir Kaur and others

..... Petitioners

VERSUS

Manjot Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vinay Kumar, Advocate, for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 19.04.2018, passed by the Civil Judge (Junior Division), Jalandhar (for short, the Trial Court) through which an application filed by the petitioners seeking to produce an agreement dated 16.12.2005 as secondary evidence has been dismissed.

The facts in brief which need to be noticed for adjudicating upon the present petition are that the respondents, who were the defendants in the suit filed by the petitioners/plaintiffs, moved an application requiring the petitioners/defendants to produce documents showing Daler Singh to be the owner of the suit property. In response to such application, on 03.09.2015 the petitioners/defendants suffered a statement that they were not in possession of any document which would show that Daler Singh was the owner of the suit property. Accepting their statement the Trial Court disposed of the respondents' application with a further rider that in the future, the petitioners would be debarred from producing/relying on any document which would show Daler Singh to be the owner of the suit property and adverse inference in that regard would be taken against them at the time of the final decision of the suit.

Once the petitioners had stated before the Trial Court that they were not in possession of any document which would show that the suit property was owned by Daler Singh and on such statement the Trial Court had passed a specific order debarring the petitioners from producing in the future any document which would show the ownership of the suit property to be that of Daler Singh, the petitioners cannot be allowed to produce the agreement dated 16.12.2005 to show Daler Singh to be the owner of the suit property by way of secondary evidence especially when the aforesaid order passed by the Trial Court debarring the petitioners from doing so was never challenged by them and had thus attained finality. The petitioners also cannot be allowed to blow hot and cold as on an earlier occasion they had categorically stated that they did not possess any document which would show that the suit property was owned by Daler Singh and later seek to produce such document as secondary evidence especially when it is also not their case as set up by them in their plaint that it was Daler Singh who was the owner of the suit property.

In view of the above, no merit is found in the present petition and accordingly, the same is dismissed.

14.08.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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