

VIKAS CHANDER
2018.12.20 12:11

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 17.12.2018

CR no.5887 of 2016

1)

Dharam Singh

...Petitioner

Vs.

Lal Singh @ Lali and others

...Respondents

2)

CR no.7860 of 2016

Dharam Singh

...Petitioner

Vs.

Lal Singh @ Lali and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. S.N. Saini, Advocate, for the petitioner.
Mr. Ritesh Aggarwal, Advocate, for the respondents.

Amol Rattan Singh, J (Oral)

On 13.12.2018, the following order had been passed:-

“At the outset, learned counsel for the respondents submits that these petitions have actually been rendered infructuous in view of the fact that the learned trial Court (Additional Civil Judge, Senior Division, Nabha), has pronounced the judgment in the suit filed by the petitioner-plaintiff on 26.11.2018, in support of which he has produced in Court a copy of the said judgment.

However, Mr.Saini, learned counsel for the petitioner, submits that, as a matter of fact, in view of the directions given by this Court on the last date of hearing, i.e. also on 26.11.2018, the learned trial Court has actually adjourned the matter before it, i.e. the suit, for further hearing.

Mr.Saini would determine as to on what basis he is making that contention (obviously on instructions), in view of the fact that the copy of the judgment of the learned trial Court is shown to be one down loaded

from the website of the learned trial Court, digitally signed by one Jagmohan Chopra, Stenographer to the learned Additional Civil Judge (Senior Division), Nabha.

Adjourned to 17.12.2018.

To be shown in the urgent list.

A photocopy of this order be also placed on the file of the other connected matter.”

Today Mr. Saini, learned counsel for the petitioner, submits that though the suit before the learned trial court had been ordered to be listed on 26.11.2018, for pronouncement of orders, the orders were actually not pronounced on that date but pronounced on the next date, i.e. 27.11.2018, with this Court having on 26.11.2018 itself, directed the trial court to adjourn the matter to a date beyond that given by this Court on 26.11.2018, i.e. 13.12.2018, in the presence of the learned counsel for the respondents-defendants.

Mr. Saini further submits that even thereafter an application under Section 151 CPC has been made before the trial court to recall/review its order dated 26.11.2018, in which notice has been issued to the respondents, with arguments to be addressed on December 20, 2018.

Learned counsel for the respondents-defendants, as also Mr. Saini, have further informed this Court that the suit had earlier been listed on 31.10.2018 (that date in fact given by Mr. Saini) when it was adjourned to 26.11.2018, for rebuttal evidence if any and for arguments.

Mr. Saini submits that it is very obvious that arguments having been addressed on 26.11.2018 itself, the judgment could not have been pronounced by the trial court on that date itself after dictating it and as a

matter of fact it was pronounced on 27.11.2018, with the order shown to be dated 26.11.2018.

Having considered the matter, though Mr. Saini may be correct in submitting that as a matter of fact the judgment may have been dictated either in Court on 26.11.2018 and signed subsequently, or dictated after courts hours on 26.11.2018; however, it not having been shown to this Court that the order of this Court dated 26.11.2018, directing the trial court to adjourn the matter to a date beyond the date given by this court at that stage (the next date before this Court being 13.12.2018), was actually shown to that court, the trial court cannot be expected to know of the order, though learned counsel for the respondents also does not deny that he had conveyed it to the counsel appearing for the respondents-defendants there.

However, to repeat again, it not having been shown to this court that the interim order 26.11.2018 was actually conveyed to the trial court on that date, it would not be possible for this Court to hold that the trial court had erred in pronouncing the judgment on that date itself.

Consequently, with the petitioner obviously at liberty to avail of his liberty against any order passed on the application filed by him under Section 151 CPC, as has been submitted by Mr. Saini, as also of course remedy against the judgment itself, this petition is disposed of as having been rendered infructuous, the suit out of which this petition arises itself having been decided.

It is further to be observed that if the petitioner choses to file any appeal against the judgment of the trial court dated 26.11.2018, he

would naturally be at liberty to take a plea that the application filed under Order 6 Rule 17 was erroneously rejected.

17.12.2018
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : No