

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-7348-2014

Date of decision : 01.10.2018

Darshan Kumar

... Petitioner

Versus

Vijay Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Manish Kumar Singla, Advocate
for the petitioner.

Mr. Gagandeep Baghria, Advocate
for the respondent.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner impugns the order of the learned trial Court dated October 13, 2014, by which the petitioners' application seeking to lead additional evidence has been dismissed.

By that application, the petitioner was seeking to lead evidence to effect that application no.4985 filed before the Deputy Commissioners' office at Sangrur (seeking a certified copy of the affidavit of the plaintiff), which affidavit, as per the petitioner, is not actually available in the said office, with a report of the said office stating that there was actually no such record of the affidavit (ever having been executed).

The said evidence is sought to be led on the ground that it undermines the respondent-plaintiffs' entire contention that he was present at the office of the Sub Registrar on the date the sale deed was to be executed, thereby showing his readiness and willingness to execute the sale

did come present, he went away stating that he did not have the sale consideration. Thus, as per the petitioner, the respondent herein had actually executed no such affidavit before the Registrar.

Learned counsel for the respondent on the other hand points to the fact that in the impugned order it is specifically stated that the Sub Registrar had made an endorsement on the affidavit of the respondent-plaintiff (Ex.P2 before the trial Court), that the seller had also come present (as had the executant of the affidavit, i.e. the respondent-plaintiff) and which was also seen to be so on the affidavit relied upon by the petitioner-defendant (Ex.D1), wherein the endorsement is commensurately to the reverse effect (that the petitioner-defendant as also the prospective vendee had come present before the Registrar), and consequently, it was for the petitioner-defendant to disprove the said endorsement on the document.

Having considered the matter, in the opinion of this Court, even to disprove the correctness of the aforesaid endorsement as was purported to be led by way of evidence by the respondent-plaintiff as Ex.P2, the petitioner had a right to show that the affidavit was actually never executed, there being no such entry with regard to its execution in the office of Sub Registrar / Deputy Commissioner.

Consequently, without making any comment on the actual merits of the case for or against the parties, this petition is allowed, with the impugned order set aside and the petitioner-defendant permitted to lead the evidence as was sought by him in the aforesaid application.

To repeat, whether or not the said evidence turns the case in favour of either party to the *lis* is not being commented upon by this Court, and all evidence, including additional evidence allowed to be led by this

order, would be appraised on its own merit by the trial Court. For the purpose of leading such additional evidence, the petitioner shall be granted one effective opportunity.

The interim order stands vacated.

(AMOL RATTAN SINGH)
JUDGE

October 01, 2018.
D.K./dinesh

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