

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8068 of 2017

Date of Decision: 13.03.2018

Birma Devi

.....Petitioner

Vs.

Bimla Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.P.Sharma, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

The petitioner has come up in revision against the order dated 08.11.2017 (Annexure P-8) whereby his application for additional evidence dated 30.10.2017 (Annexure P-6) has been rejected.

The petitioner/plaintiff Smt.Birma Devi and Prem Devi had filed a suit against Bimla Devi-defendant for declaration that they are exclusive owners in possession in the suit land details given in the plaint situated at town Mahendergarh vide registered sale deed dated 20.02.2014. The defendants contested the suit and filed their written statement Annexure P-2 taking stand that suit property had come in the share as per agreement dated 19.04.1989 and family settlement dated 21.05.2006. They also admitted the fact of the civil suit 13/1989 was decided on 24.04.1996. In this suit, plaintiffs closed their evidence on 19.07.2017 and the evidence of the defendants started from 09.08.2017. They produced agreement of the family partition dated 19.04.1989 as Ex.DW-7/D (Annexure P/3) and also filed family writing dated 20.05.2006 as Ex.DW-7/E (Annexure P/4) and in the application for additional evidence (Annexure P/6). The plaintiff wanted

to produce the certified copy of plaint filed in civil suit No.13 of 1989 and to examine Ramoutar S/o Ganpat Ram but the said application was dismissed vide impugned order (Annexure P-8) dated 08.11.2017.

The trial Court had dismissed the application on the ground that the witness sought to be examined and the document proposed to be produced in additional evidence which were now well within the knowledge of applicants since very day of filing written statement of defendants which clearly finds mention of compromise dated 21.05.2006 (Ex.PW7E) as well as of Civil Suit No.13 of 1989. Even the said civil suit also finds reference in the plaint also. So the factual circumstances clearly speak of gross latches and gross negligence and malafide intention on the part of applicants. Secondly, the certified copy of the plaint of Civil Suit No.13/1989 which applicants want to produce in additional evidence had already been exhibited in defenants' evidence as Ex.DW6/A and further, applicants have failed to show any relevancy of document proposed to be produced and the witness proposed to be examined in additional evidence to the matter in dispute as to consider the same to be essential for just decision of the case. The plaintiffs are seeking declaration that they have been registered a sale deed No.4198 dated 20.02.2012 to which neither the document nor the witness sought for production/examination in additional evidence pertains or related in any manner.

The defendants who want to take the benefits of two documents Ex.DW6/A and Ex.DW7/E and if they have to justify their position, they will have to prove the validity and relevancy of these documents in accordance with law. In this regard, a perusal of the impugned order shows that the only valid ground for dismissal of the application is that Ram Avtar S/o Ganpat

Ram had appeared as PW-6 during the trial of the criminal case titled State vs. Chhotelal in FIR No.345 dated 20.09.2010, Police Station, Mahendergarh, which was registered by Ramotar son of Chhotelal and admitted in his statement dated 17.03.2015 regarding both the said settlements, writings, his own signatures and signatures of his brothers as well as his father and also of the attesting witnesses thereof. In this way, there is admission of the said Ramotar regarding these two documents and now there is no need to examine him again with regard to the same documents on behalf of plaintiffs. Further there was no need of referring said writings Ex.PW7/D in Civil Suit No.13 of 1989 as there was no dispute in that suit between the Ganpat & Chotelal.

So after going through the impugned order, the same does not reflect any material irregularity or perversity which warranting interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

13.03.2018.
anil

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