

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

**CR No.8726 of 2016(O&M)
Date of Decision: 25.07.2018**

Kuldip Kaur

.... Petitioner

Versus

Amarjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kulwant Singh, Advocate
for the petitioner.

Mr. Saurabh Kapoor, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred by the petitioner against the order dated 20.09.2016 passed by Civil Judge (Junior Division), Jagraon, whereby the evidence of the petitioner to examine Sadar Kanungo was closed by the order of the Court.

[2]. On 23.12.2016, at the time of issuance of notice of motion, following order was passed:-

“Counsel for the petitioner inter alia contends that the petitioner/plaintiff has filed the suit for joint possession of the suit property detailed in headnote of the plaint by claiming it to be coparcenary property having 1/3rd share

therein. An application was filed by the petitioner for calling upon the Sadar Kanungo to prepare an excerpt to prove the claim of the petitioner qua nature of the property to be ancestral/co-parcenary. Evidence of the petitioner was closed except to examine Sadar Kanungo. The Sadar Kanungo appeared in the Court and made a statement that he would bring the records on the next date. It is further submitted that the trial Court has closed right of the petitioner to prove the excerpt along with original records without any fault attributable to the petitioner. It is further submitted that a serious prejudice is likely to be caused to the petitioner in case she is not allowed to prove co-parcenary nature of the property.

Notice of motion for 05.04.2017.

In the meantime, proceedings shall carry on but pronouncement of the final order shall remain stayed.”

[3]. Evidently, the evidence of the plaintiff was closed except the leading of evidence in the form of excerpt (intekhab) to be prepared by Sadar Kanungo. The intended effort of the plaintiff was to prove the nature of property to be ancestral/coparcenary. Rajinder Pal, Sadar Kanungo appeared in Court on 20.09.2016 and made a statement to the effect that he had already given summoned record about 4-5 months ago which was in Punjabi. Remaining record prior to 1960 was in Urdu and he asked the learned counsel for the plaintiff to translate the same in Punjabi. However, needful in terms of translation was not done. The witness did not appear in Court,

consequently his presence was secured by means of coercive method.

[4]. Trial Court vide the impugned order dated 20.09.2016, closed the evidence of the plaintiff by order.

[5]. Plaintiff has filed the suit for joint possession by claiming the property to be coparcenary in which coparceners having 1/3rd share therein. The application for summoning Sadar Kanungo for preparation of excerpt was filed on which Sadar Kanungo had appeared in Court and made the statement in the manner as mentioned above.

[6]. It appears that the statement of Sadar Kanungo was with a view to avoid coercive method against him. Be that as it may, since after leading of evidence by the plaintiff, except the excerpt, passing of final order by the trial Court was stayed by this Court, however proceedings were ordered to be carried out, therefore, I deem it appropriate to grant one more opportunity to the plaintiff to examine Sadar Kanungo along with required document (excerpt) for which learned counsel for the petitioner undertakes to supply translated documents within two weeks from the date of receipt of certified copy of this order. On receipt of translated documents, Sadar Kanungo would proceed to prepare the necessary document and shall tender in the Court in accordance with law. Admissibility, validity and genuineness

of the document however would be subject to appreciation of the Court at the relevant time.

[7]. In view of above, impugned order dated 20.09.2016 passed by Civil Judge (Junior Division), Jagraon is set aside. One opportunity is granted to the plaintiff/petitioner to prove the excerpt by translating Urdu documents in Punjabi within two weeks from the date of receipt of certified copy of this order. In the event of doing so, Sadar Kanungo would be obligated to do the needful within the time specified by the trial Court in the aforesaid context.

[8]. For the reasons recorded hereinabove, this revision petition is allowed. Normal consequences to follow.

July 25, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No