

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1797 of 2018 (O&M)

Date of Decision: May 01, 2019

Sarabjit Kaur

...Petitioner

Versus

Paramjit Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Rahul Bhargava, Advocate,
for the petitioner.

Mr. Chetan Bansal, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The present revision petition is directed against the impugned order dated 04.09.2017 (Annexure P-6), whereby while entertaining the application of the respondent-defendant, the agreement to sell Ex.PW1/A has been de-exhibited.

Mr. Rahul Bhargava, learned counsel for the petitioner-plaintiff submitted that the agreement to sell in a suit for specific performance does not require the compliance of the provisions of Section 35 of the Indian Stamp Act. There is no provision in the Civil Procedure Code for de-exhibition of the document and, therefore, the impugned order is not sustainable.

Mr. Chetan Bansal, learned counsel for the respondent-defendant submitted that during the pendency of the revision petition and the trial, subsequent event has taken place, whereby on an application filed

under Order 1 Rule 10 CPC by the petitioner-plaintiff, subsequent purchasers have been impleaded and they have been given permission to file the written statement and issues are to be re-casted. Objection can conveniently be overcome in such manner, but does not deny any provisions in the Civil Procedure Code for de-exhibition of the document.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the impugned order is wholly fallacious as Section 35 of the Indian Stamp Act, extracted in the impugned order, would not apply in a case for specific performance of the agreement to sell as agreement can also be a piece of paper. It is the intention of the parties just to prove the same through the testimony of the witnesses, i.e., scribe etc. and can be belied through the testimony of the expert and cannot be thrown out for want of stamp duty, neither there is any provision in the Civil Procedure Code for de-exhibition. The aforementioned view of mine is derived from the ratio decidendi culled out in **Smt.Jaswant Kaur Versus Satish Kumar Aggarwal & others, 2016(4) PLR 632.**

The existence of the subsequent event could not be supported by Mr.Bhargava in view of any instructions from his client. Be that as it may, the impugned order is set-aside. However, this order will not preclude the defendant to take objection qua admissibility of the document in accordance with law.

Revision petition stands allowed.

May 01, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No