

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3718 of 2017
Date of decision: 18.07.2019

Brahmi Devi

....Petitioner

Versus

Mam Chand and others

....Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr. Yashjot S. Dhaliwal, Advocate for Mr. K.S. Dhaliwal,
Advocate for the petitioner.

Mr. Vivek Goyal, Advocate for respondent Nos.1 to 11.

B.S. Walia, J. (Oral)

1. Prayer in the petition is for setting aside order dated 1.5.2017 passed by the learned Civil Judge (Jr. Division), Kurukshetra whereby the application filed by petitioner-defendant No.2 under Section 151 CPC for leading additional evidence was dismissed by the learned trial Court.

2. The respondent-plaintiffs filed civil suit for partition of the property as per details which have been mentioned in the plaint, fully shown in the jamabandi and the site plan attached and also for separating the share of the plaintiffs from the defendants etc. The petitioner-defendant Nos.2 to 4 filed a written statement claiming that part of the property in respect of which partition had been sought by the respondent-plaintiffs had been sold to petitioner-defendant Nos.2 to 4 by Bishna, father of the respondent-plaintiffs, therefore, the question of partition of the said portion of the property did not arise. After the petitioner-defendant Nos.2 to 4 had closed their evidence, an application was moved under Section 151 CPC for leading additional evidence by way of producing sale deed dated 23.12.1987 qua the property in question

Nos.2 to 4 as also mutation in respect thereto as sanctioned in the name of petitioner-defendant Nos.2 to 4 on the ground that the same had been misplaced earlier and it was only after the same had been traced out that an application had been moved for placing the same on record by way of additional evidence.

3. Learned counsel for the respondent-plaintiffs contended that although the sale deed and mutation claimed by petitioner-defendant Nos.2 to 4 to be in their father's name was in respect of some other land which was not the subject matter of the suit filed by the respondent-plaintiffs yet he had no objection to the impugned order being set aside and the petitioner-defendant Nos.2 to 4 being allowed to lead additional evidence as prayed for subject to payment of costs and the decision of the suit being made time bound.

4. In the light of the position as noted above as well as statement of learned counsel for the respondent-plaintiffs, the revision petition is allowed. Impugned order is set aside subject to payment of costs of ₹5,000/- to the respondent-plaintiffs.

5. Parties are directed to put in appearance before the learned trial Court on 22.7.2019 whereupon the learned trial Court shall take on record the certified copies of sale deed and mutation and proceed in respect thereto in accordance with law. It is further directed that the learned trial Court shall endeavour to conclude the proceedings and decide the matter expeditiously preferably within a period of six months from today.

6. Revision petition is allowed in the aforementioned terms.

July 18, 2019

ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No