

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

Civil Revision No.4726 of 2018 (O&M)
Date of Decision: May 02, 2019

Daljit Kaur & others

...Petitioners

Versus

Harbans Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. N.K.Manchanda, Advocate,
for the petitioners.

Ms. Manmohan Kaur, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

The present revision petition is directed against the impugned order, whereby the application of defendant No.1 submitted under Order 6 Rule 17 CPC for amendment of the written statement filed by defendant Nos.1 and 2 setting up the adverse claim vis-a-vis the petitioners-defendant Nos.2 to 4, has been allowed.

Mr. N.K.Manchanda, learned counsel appearing on behalf of the petitioner-defendant Nos.2 to 4 submitted that defendant No.1 Harbans Singh, vide sale deed dated 25.07.2014, had already sold the land to defendant No.2. The plaintiffs (respondent Nos.2 to 4), who were none else but his brothers, filed the suit in October, 2014. both the parties contested the suit. Defendant No.1 admitted to have voluntarily sold the land for valuable consideration and defendant No.2 claimed himself to be bonafide purchaser. The plaintiffs examined their witnesses and when the suit was

slated for defendants' evidence, an application was moved intimating that a complaint was filed to the police that he was not in sound state of mind and wanted to withdraw the statement. Such an approach is not permissible as it is an act of apparent collusion between the plaintiffs and defendant No.1 to take away the valuable right of the petitioner-defendant No.2 and, thus, urged this Court for setting-aside the impugned order.

On the contrary, Ms.Manmohan Kaur, learned counsel appearing on behalf of respondent No.1 submitted that defendant No.1 is not in mental state and in this regard had filed a complaint to the Senior Superintendent of Police, Moga. The admission can be withdrawn if the reasons are explained. In support of the aforementioned contention, relied upon the ratio decidendi culled out by this Court in **Dharam Singh Versus Rattan Singh and others**, 2015(5) R.C.R. (Civil) 599.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of the learned counsel for the petitioners as the facts narrated above regarding the sale deed and filing of the joint written statement dated 05.11.2014 reveal that defendant No.1 contested the suit along with defendant No.2 for denying the claim of the plaintiffs, but subsequently volte-faced and moved an application in 2018. It is an apparent act of collusion as the reason given in the application that there was some pronote and on the pretext of payment, obtained signatures. It was an afterthought which cannot be said to be not a case of apparent collusion.

There is no dispute to the ratio decidendi culled out in **Dharam Singh's case (supra)**, but the facts and circumstances of each case have to be seen. It was a joint written statement and the amendment qua

withdrawing of the admission would definitely take away the valuable right of defendant No.2.

For the reasons mentioned above, the impugned order is set-aside as the same suffers from illegality. Revision petition stands allowed.

May 02, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No