

263

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

**Civil Revision No.7205 of 2016
Date of Decision: 05.03.2019**

PINKI @ RAMESH

.....Petitioner

Vs

RAKESH KUMAR DATTA & ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.S. Dinarpur, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred against the order dated 31.10.2013 passed by the Addl. Civil Judge (Sr. Divn.) Yamuna Nagar at Jagadhri and order dated 25.05.2016 passed by the District Judge, Yamuna Nagar at Jagadhri vide which application under Section 151 CPC was allowed.

[2]. A suit for declaration was filed by the plaintiffs. Petitioner is one of the plaintiff i.e. plaintiff No.2. The suit was withdrawn on the basis of compromise. Statement of both the plaintiffs were recorded by the trial Court and thereafter plaintiffs were allowed to withdraw the suit on the basis of compromise. The statement of the petitioner/plaintiff No.2 was recorded on

23.09.2009 which was duly identified by her counsel Sh. Parveen Sharma. The compromise was taken on record as Ex.CY. Similar statement of plaintiff No.1 Rajinder was also recorded and thereafter suit was allowed to be withdrawn on 26.09.2009.

[3]. Plaintiff No.1 has not filed any revision petition challenging the order vide which the suit was ordered to be dismissed as withdrawn. On the application under Section 151 CPC filed by the petitioner/plaintiff No.2, the trial Court has framed issue No.1 in the context of valid grounds for setting aside the order of withdrawal of the suit.

[4]. The trial Court found that the plea taken by the petitioner is contrary to the evidence which was led before the Court. Petitioner has not taken any plea that she did not give any statement on 23.09.2009 before the trial Court. She has also not taken a plea that she did not sign on the compromise before the trial Court on 23.09.2009 which was duly placed on record as Ex.CY. On the other hand, signature on the compromise is an admitted fact.

[5]. The plea with regard to the forgery has not been proved on record with reference to any evidence. The plea of fraud has to be pleaded and proved like a criminal case. The trial Court after appreciating the material on record has found that the

petitioner has not proved issue No.1 with reference to any material on record.

[6]. The findings recorded by the trial Court in para Nos.11, 12 and 13 of the impugned order dated 31.10.2013 cannot be said to be the result of any misreading of evidence or suffered with any perversity.

[7]. In view of above, I do not wish to interfere in the impugned orders passed by the Courts below. This revision petition is accordingly dismissed.

March 05, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No