

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 1008 of 2019 (O&M)

Date of decision : 25.2.2019

...

Sunder Singh and another

.....Petitioners

vs.

Bhul Chand and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. B.K. Bagri, Advocate for the petitioners.

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H. S. Madaan, J. (Oral)

The plaintiffs are feeling aggrieved by the order dated 3.11.2018, passed by the trial Court, vide which their application under Order 12 Rule 6 CPC was dismissed. The impugned order runs as follows:-

“Arguments heard on the application filed under Order 12 Rule 6 of CPC.

2. Ld. counsel for the plaintiff being applicant has argued that on 18.11.2016 defendant suffered a statement that they are no concerned with property in dispute and therefore, they admitted the ownership and possession of applicant and therefore, judgment be passed on the admission of defendants.

3. On the other hand, Ld. Counsel for the defendants had opposed the application and argued that present application was moved just to delay the matter and at last he prayed for dismissal of the application.

4. File perused and it is clear that on 18.11.2016 defendants suffered joint statement that they are not concerned with regard to Killa No.11/3. But mere statement is not sufficient to declare the plaintiff as owner in possession of the property in dispute. The present suit was filed by plaintiff and sought the relief of declaration to declare them owner in possession of property in dispute. Further same has to be proved by leading evidence and therefore, there is no ground to pass any judgment only on the basis of statement dated 18.11.2016. in such condition, present application is hereby dismissed.

Now, case is adjourned to 30.11.2018 for evidence of plaintiff, being last opportunity.”

A perusal thereof goes to show that the trial Court has recorded its subjective satisfaction that the joint statement suffered by the defendants was not sufficient to declare the plaintiff as owner in possession of the property in dispute. In terms of Order 12 Rule 6 CPC, where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the court may at any stage of the suit, either on the application of an party or of its own motion and without waiting for the determination of any other question between the parties, make such Order or give such judgment as It may

think fit, having regard to such admissions. In that way the Court is not bound to pass a judgment in such eventuality. The application was being vehemently opposed on behalf of the defendants. The trial Court has not committed any illegality or infirmity in passing the order and declining the request.

Finding no merit in the revision petition, the same stands dismissed.

25.2.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No