

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1765 of 2019(O&M)
Date of Decision: 23.09.2019

Kamla Devi

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sumit Kalyan, Advocate for
Mr. G.S. Madaan, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has laid challenge to the order dated 30.11.2018 passed by Additional Civil Judge (Senior Division), Pathankot, vide which application for additional evidence filed by the plaintiff/petitioner was dismissed.

[2]. Plaintiff wanted to prove document Mark C by way of summoning the record of the Collector Agrarian, Pathankot. Plaintiff asserted that the original receipt was handed over by the plaintiff to her previous counsel and the same has not been brought on record. Plaintiff further submitted that her husband i.e. Bajo Ram had deposited an amount of Rs.500/- towards

price of the land installment in case No.3141 dated 15.07.1980 before Collector Agrarian. The amount was deposited by him vide form No.32-A on 05.11.1980. The original receipt was handed over to the previous counsel, but the same has not been brought on record, rather the same is not available now. Plaintiff further claimed that for proper adjudication of the suit, the said document is required to be proved by way of additional evidence.

[3]. Perusal of the record would show that evidence of the plaintiff was closed after marking the document as Mark C. Trial Court dismissed the previous suit filed by the plaintiff and thereafter, the present suit for mandatory injunction was filed, directing the defendants to allow the plaintiff to deposit the remaining price of the land so allotted to Bajo Ram. Plaintiff sought declaration to the effect that plaintiff is entitled for declaration as owner in possession of half share of the land and the entries to the contrary in the revenue record are incorrect, null and void. The present suit was filed on 12.12.2014. A photostat copy of Mark C was placed on record at the time of leading of plaintiff evidence. Evidence of the plaintiff was closed on 03.05.2018 by making statement by her counsel in the trial Court. Thereafter, evidence of the defendants was also closed on 16.11.2018. Plaintiff has not asserted anywhere that the

original receipt is lying with her.

[4]. Earlier Civil Suit No.420 of 02.11.2014 titled Kamla Devi Vs. Gurdial Singh etc. for declaration to the effect that plaintiff has become owner in possession of the land was dismissed by the trial Court vide judgment and decree dated 16.08.2012. The plea of allotment of the land in favour of Bajo Ram by the Collector Agrarian vide order dated 23.05.1978 was specifically pleaded in the earlier suit. Bajo Ram could not pay the installment and as a result of that, the land was allotted to one Sagar Singh i.e. another landless person, but vide order dated 31.03.1981, the Collector Agrarian had restored the previous order dated 23.05.1978 as Bajo Ram was already in possession of the property.

[5]. The plea of the plaintiff in the earlier suit was not accepted by the trial Court and the suit was dismissed. Now at the stage of rebuttal, the plaintiff seeks to adduce additional evidence without making any such endeavour to lead evidence of original receipt with the help of additional evidence. Even with the leading of additional evidence, the fact would remain the same as the plaintiff cannot prove his case beyond the copy of photostat copy of receipt. No such effort has been made by the plaintiff to lead secondary evidence at any point of time. Plaintiff is not in possession of the original receipt. In the absence of

proving the original receipt with the help of receipt available in the office of Collector Agrarian, no such indulgence can be granted at the stage of rebuttal evidence.

[6]. In view of above, impugned order passed by the trial Court is not found to be suffered with any error of jurisdiction. This revision petition is accordingly dismissed.

23.09.2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No