

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

CR-3187-2019 (O&M)
Date of decision: 16.05.2019

Puneet Chopra

...Petitioner

Versus

Deepak Chopra

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. R.S. Athwal, Advocate for the petitioner.

Mr. Sanjay Kaushal, Sr. Advocate with
Mr. A.P. Setia, Advocate for the caveator/respondent.

H.S. MADAAN, J. (Oral)

This revision petition is directed against orders dated 06.02.2019 and 19.04.2016, passed by Civil Judge (Jr. Divn.) Chandigarh.

Briefly stated facts of the case as those emerge from the record are that in a suit for grant of permanent and mandatory injunction titled 'Deepak Chopra Vs. Puneet Chopra', applicant/defendant Puneet Chopra had made a statement in the Court to the following effect on 19.04.2016:-

“Though, the plaintiff is not in possession of the portion ABCD as claimed by him in the present suit, however, without prejudice to my right in the present case and as a humble tribute to his father, he want to settle the dispute amicably and hereby wish to give possession of 1/3rd portion marked as ABCD in the site plan in the present suit and fallen to the 1/3rd share of the

plaintiff as per the family settlement and the decree of the court already on record and also as claimed by the plaintiff in the present suit, however, under the supervision of the court and a local commissioner may kindly be appointed to hand over the vacant possession of the 1/3rd portion marked as ABCD as annexed by plaintiff in the present suit to the plaintiff subject to the condition that the plaintiff withdraws the present suit unconditionally”.

The statement was recorded in the Court in the presence of the parties and their counsel. The plaintiff had made a statement that he had gone through the statement of defendant/applicant and the same was accepted to him without prejudice to his right.

As such, vide order dated 19.04.2016, a Local Commissioner was appointed and both the parties had agreed that a wall be constructed between 1/3rd portion i.e. ABCD to be given to the plaintiff and the remaining 2/3rd portion belonging to defendant. Both the parties had contributed equally and the wall was constructed under supervision of both the parties and almost 90% of the work was completed and the Local Commissioner was to submit his report after visiting the site. Subsequently, the defendant moved an application in the Court for withdrawal of statement dated 19.04.2016 for the reason that there was no possibility of amicable settlement in view of the subsequent act and conduct of the plaintiff and the applicant/defendant wanted to bring on record that late father of plaintiff and applicant/defendant had bequeathed his entire moveable and immovable property by means of Will and Testament dated 09.08.2011, duly registered with Sub Registrar,

Chandigarh. That applicant/defendant has applied for transfer of his share in the house in question in accordance with registered Will and Estate Office has proceeded in accordance with law. This application was vehemently resisted by the plaintiff, contending that the application was not maintainable and the statement could not be allowed to be withdrawn in such a manner, when it has been acted upon and rather, it amounts to contempt of the Court. According to the plaintiff, the statement had been made by the applicant/defendant on 19.04.2016 voluntarily without any duress or coercion, fraud or misrepresentation as well as in sound state of mind, considering the family settlement dated 15.01.1991 and in consonance with Court decree dated 24.08.1994. The defendant was well aware of existence of alleged Will at the time of making statement in the Court, however, the Will has no relevance to portion ABCD, which is subject matter of the suit and has been in exclusive possession of the plaintiff since 1991, as per the family settlement and subsequent Court decree dated 24.08.1994. In the end, he prayed dismissal of the application.

The trial Court vide a detailed, well reasoned order in the light of factual and legal position, dismissed the application with the following conclusion:-

“In view of the discussion above, as the statement of the parties regarding the settlement has already been recorded and Local Commissioner was duly appointed by the Court and the said compromise/settlement was really acted upon and necessary expenses were spent by the parties, the same cannot be undone and reverted back to the earlier position just on the asking of the

applicant-defendant to withdraw his earlier statement, which will amount to the abuse of the process of the Court, which cannot be allowed which also affects the rights of the other parties. Hence, the application for withdrawing the statement dated 19.04.2016 filed on behalf of applicant is not maintainable and is hereby dismissed. To come up on 19.03.2019 for awaiting the final report of Local Commissioner. Notice regarding furnishing the report be also issued to the Local Commissioner for the date fixed.”

The order is detailed, well reasoned, based upon proper appraisal of evidence and correct interpretation of law. It cannot be left to option of the defendant to make statement in the Court and when the settlement arrived at between the parties, has been acted upon, then, try to wriggle out of the same by seeking permission to withdraw the statement. The authorities **Gurpreet Singh Vs. Chatur Bhuj Goel, 1988 AIR (SC) 400** and **Sumer and anr. Vs. Vijay Singh and anr. 1990(1) RCR (Rent) 198** referred to by learned counsel for the petitioner are not applicable due to different facts and circumstances as well as the context in which such observations had been made. There being no merit in the revision petition, the same stands dismissed.

16.05.2019

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**(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No