

CR No.4297 of 2019

Date of Decision: 15.7.2019

Om Parkash and another

.....Petitioners

Versus

Banarsi Dass (deceased) through LRs and anotherRespondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Munish Mittal, Advocate, for the petitioners.

NIRMALJIT KAUR, J. (ORAL)

Learned counsel for the petitioners while praying for setting aside the impugned order 30.5.2019 stated that the petitioners are claiming the right on the basis of agreement to sell dated 4.10.1995. Much time has passed and suit was filed as late as on 2.1.2002. Therefore, the suit itself not being maintainable, the prayer of secondary evidence should not be allowed.

The above ground is available for preliminary objection and not for the purpose of leading secondary evidence.

It is the admitted position that the matter was pending before the Hon'ble Apex Court, wherein the proceedings remained stayed till the decision by the Hon'ble Apex Court on 1.8.2017. In these circumstances, prayer of learned counsel for the petitioners for secondary evidence at this stage, where the petitioners have come to the Court immediately after framing of issues, cannot be turned down. It is not denied that the secondary evidence is otherwise relevant for adjudication of the case.

In view of the same, no ground for interference in the impugned order is made out.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

15.7.2019
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No