

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 105

Case No. : C. R. No.16420 of 2018 (O&M)

Date of Decision : January 07, 2019

Devender Kumar (since deceased)
through his LRs Petitioners

vs.

Bharat Bhushan and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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

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DEEPAK SIBAL, J. (Oral) :

Through the present petition, challenge is made to order dated 11.12.2018 passed by the Civil Judge (Junior Division), Yamuna Nagar at Jagadhri (for short – the trial court), through which an application preferred by the petitioners under Section 151 CPC to lead additional evidence has been dismissed.

The facts in brief, which are required to be noticed for adjudicating upon the present petition are that respondent no. 1 filed a suit against Devender Kumar and Naresh Kumar seeking therein possession of Plot No. 32 measuring 320 sq. yds. comprised in Khewat No.162 Khataoni No.223/224 Khasra No. 465/368/95 (15-19) (Gair Mumkin Plot), situated in Mauza Garhi Mundo (presently known as Bhola Nagar), Tehsil Jagadhri,

for restraining the aforesaid Devender Kumar and Naresh Kumar from raising any construction over the suit property as also from alienating the same was also sought. The aforesaid suit was filed in the year 2012 and after both the parties in the suit had led their respective evidence, the petitioners, as legal heirs of Devender Kumar, filed an application under Section 151 CPC to produce additional evidence in the form of certified copies of some documents including a registered deed dated 09.02.2002 and sale deed dated 17.06.2008. The application was considered and dismissed by the trial court through the order which is impugned in the present proceedings.

Learned counsel for the petitioner has been heard.

The petitioners are the legal heirs of Devender Kumar who was defendant no. 1 in the suit for possession instituted by respondent no. 1. Admittedly, Devender Kumar died in the year 2015 but the petitioners sought to be impleaded as his LRs only in the year 2018. After their impleadment, the application for producing additional evidence was filed by them. No worthwhile explanation is forthcoming from the petitioners for such inordinate delay. The only reason given by them is that they became aware of the above suit filed against Devender Kumar only on 25.11.2018. This does not appear to be a correct statement as admittedly Devender Kumar was represented by counsel who would have apprised his family with regard to the suit which, at the time of his death had already been pending for the last three years. It is not acceptable that Devender Kumar was facing litigation for over three years without his wife – Harshita

Duggal, who is one of the petitioners, being in the knowledge of the same. Thus, in the absence of due diligence, in a suit filed in the year 2012, after both parties have led their respective evidence, the petitioners cannot be permitted to lead additional evidence especially when the main documents sought to be produced are dated 09.02.2002 and 17.06.2008 and were thus in existence even before the written statement was filed on behalf of the petitioners.

Even otherwise, no relevance whatsoever has been shown to this Court as to how and in what manner, the evidence led by respondent no. 1 is required to be rebutted through the additional evidence sought to be produced by the petitioners.

In view of the above, no error is found in the order impugned before this Court occasioning interference under Article 227 of the Constitution of India.

Dismissed.

(DEEPAK SIBAL)
JUDGE

January 07, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>