

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 7615 of 2019 (O&M)

Date of decision : 29.11.2019

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Ravinder Singh

.....Petitioner.

vs.

Hazara Singh

.....Respondent

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

Present: Ms. Nisha, Advocate for
Mr. S.S. Sarvara, Advocate the petitioner.

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H. S. Madaan, J. (Oral)

In a suit for separate possession filed by plaintiff Ravinder Singh against defendant – Hazara Singh, the defendant had moved an application seeking permission to lead secondary evidence of compromise dated 3.11.2006. That application was allowed by the trial Court vide order dated 4.11.2019, the relevant paragraph of which is reproduced as under :-

“5. The present case has been filed by plaintiff seeking separate possession of the suit property along with permanent injunction. The defendant in his written statement particularly in para No.2 has specifically stated that written

compromise dated 03.11.2006 was executed between the parties as well as 3rd party – brother of the party namely Baljit as per which the entire suit property had come to the share to the defendant. The plaintiff had moved an application seeking direction to the defendant to produce the original compromise dated 3.11.2006. Defendant had suffered statement at that time also that the original was not traceable. Even defendant had filed counter claim seeking declaration on the basis of this very compromise dated 03.11.2006. Meaning thereby the entire claim of the defendant is based on the said compromise dated 03.11.2006. The entire stand of defendant is based on this compromise dated 03.11.2006, the original of which is claimed to be not traceable. To deny the opportunity to lead secondary evidence to defendant regarding compromise dated 03.11.2006 would amount to denial of opportunity to defendant to prove his version. Rather it would amount dismissing the claim to the defendant by way of counter claim without giving him opportunity for putting forwarded his case. The plaintiff would get ample opportunity to prove his claim that the alleged compromise dated

03.11.2006 is forged and fabricated document.

Hence, application u/s 65 of Evidence Act is allowed and defendant is allowed to lead secondary evidence regarding compromise dated 03.11.2006 subject to proof of existence of documents itself loss and all just exceptions.”

The order adequately protects the rights of the plaintiff, since it is conditional and the conditions imposed are that defendant-applicant would prove the existence of the documents, its loss and plaintiff can raise all pleas with regard to its admissibility in accordance with law.

The order is detailed, well reasoned, does not suffer from any illegality or infirmity, much less being perverse or arbitrary. Thus there is no ground to interfere therewith by exercising the revisional jurisdiction.

The revision petition stands dismissed.

29.11.2019
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No