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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.860 of 2021 (O&M)
Date of Decision:08.04.2021

Sri Nivas Singla & Anr.

..... Petitioners

Versus

Ramesh Kumar Singla & Anr.

..... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Gursharan K. Mann, Advocate
for the petitioners.

ANIL KSHETARPAL, J.(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Defendant No.1 and 2 have assailed the correctness of an interlocutory order passed by Civil Judge, Senior Division, Mohali, while dismissing an application for permission to amend the written statement.

Through an amendment, the petitioners want to add the following objections:

“a. That since by virtue of exchange in the year 1999, defendant Sri Nivas has been in possession of Rehri Sites No.107-108, he has become the owner by virtue of adverse passion and Jiva Nand was left with no interest therein and could not transfer the same by just moving an application to Executive Authorities in the name of Ramesh Kumar as Jiva nand was left with no interest in the property.

b. That Jiva Nand cannot have the double benefit by saying on one side that he is owner of Rehri Sites No.109-110 on the basis of exchange and thereafter, Will executed by Balak Ram, when possession of Rehri Sites No.109-110 was delivered to him.

c. That plaintiff Ramesh Kumar Singla cannot take contradictory stands as in the earlier suit he claimed Rehri Sites No.107-108 owned by his father Balak Ram and made

his claim on the basis of Will which could not be proved and now taking the advantage of just register entry in the name of Jiva nand with Executive Authorities and getting the same transferred in his name cannot claim otherwise on the ground that Jiva nand has transferred Rehri Sites No.107-108 in the name of Ramesh Kumar without giving up any interest in Rehri Sites No.109-110 which were of Balak Ram.”

From the perusal of the unamended written statement, it is apparent that the defendants have already pleaded the factum of exchange of the properties between the parties. Additional objections under Clause B and C are the subject matter of arguments.

Order 6 Rule 2 of the Code of Civil Procedure provides that the pleadings should contain material facts in a concise form. In this case, a detailed written statement has already been filed. Still further, the trial of the case has made substantial progress as the plaintiff has already concluded his evidence whereas the evidence of the defendants have been partly recorded.

Still further, as per Order 43 Rule 1A, which has been recently been added in CPC, the appellant has a right to challenge a non-appealable order in appeal against the decree.

Keeping in view the aforesaid facts, no ground to exercise the jurisdiction under Article 227 of the Constitution of India is made out.

Disposed of.

(ANIL KSHETARPAL)
JUDGE

08th April 2021.

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Whether speaking/reasoned Yes/No
Whether reportable Yes/No