

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No. 2920 of 2021 (O&M)

Date of decision : 23.11.2021

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Gurdev Singh

.....Petitioner

vs.

Paiera Singh (Since deceased) through LRs and others

.....Respondents

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

Present: Mr. S.P.S. Aulakh, Advocate for the petitioner.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This revision petition is directed against order dated 14.10.2021, Annexure P-1, passed by the Court of Civil Judge (Junior Division), Samrala, vide which an application for leading additional evidence filed by defendants including Gurdev Singh, who is revisionist before this Court, was dismissed.

Briefly stated, facts of the case are that plaintiff – Piara Singh and others had brought a suit for grant of permanent injunction against defendants – Bhagat Singh and another, for restraining them from interfering into free use of passage by the plaintiffs and from blocking or cause to block or putting lock or opening any door or window of their poultry farm towards the side of the passage in question and seeking decree for mandatory injunction directing the

defendants to restore the passage in question.

On notice, the defendants put in appearance and filed written statement contesting the suit. Issues on merits were framed. Parties were afforded opportunities to lead evidence. The plaintiffs concluded their evidence. Thereafter, the case was fixed for evidence of defendants for the first time on 17.10.2016. Since the defendants failed to conclude their evidence despite availing of 41 opportunities, the same was closed by order of the trial Court dated 11.2.2019. The defendants moved an application for recalling the order dated 11.2.2019 and for being granted opportunity for leading evidence. That application was accepted by the trial Court vide order dated 30.4.2019. The defendants started availing of opportunities for leading evidence and finally closed it on 2.8.2019. Then the case was fixed for rebuttal evidence and arguments. Thereafter, they moved an application for additional evidence on 24.8.2021. That application was dismissed by the trial Court observing that it was highly belated. The suit was pending since the year 2010 and documents sought to be produced by way of additional evidence were well within the knowledge of the applicant-defendants and they had sufficient time and enough opportunities to produce those which they failed to do. Therefore, application for additional evidence moved by the defendants to prove mutation No. 9710 by way of primary evidence and to prove sale deed dated 17.5.1995 by way of secondary evidence, was doomed for failure and was dismissed.

Feeling aggrieved by such order, Gurdev Singh – defendant

has filed the present revision petition.

I have heard learned counsel for the revisionist – defendant, besides going through the record and I find that there is absolutely no merit in the revision petition.

The defendants have been shown enough indulgence by the trial Court to conclude their evidence by granting adjournments liberally. It is quite surprising that despite availing of 41 effective opportunities for leading evidence, still the defendants were unable to conclude the same and the trial Court then had to close it by order. When an application for recalling that order was filed, then strangely enough, the trial Court accepted the same. Once the evidence of the defendants had been closed by order of the court, the trial Court could not have possibly reviewed that order and recalled the same allowing the defendants to lead further evidence. The remedy open to the defendants was to file revision petition against that order before High Court but they chose an easy option of moving application before the trial Court and the trial Court for the reasons best known to it accepted the application. Thereafter, the case kept being adjourned for evidence of the defendants and defendants finally concluded it on 2.8.2019, thereafter, moving an application for additional evidence.

The defendants seem to have been taking the things in a very casual manner. The trial Court has been granting adjournments to them quite liberally. In the process the suit which was filed in the year 2010, is still pending despite passing of 11 years. Such type of

litigants deserve to be dealt with firmly and strictly. It is not sweet will of a litigant to seek opportunity for leading further evidence as and when he feels like. The trial Court was fully justified in dismissing the application. The order passed in that regard is quite detailed, well reasoned, keeping in view the legal position on the subject and no interference therewith by this court is called for by exercising the revisional jurisdiction.

The revision petition is absolutely without any merit and is dismissed accordingly.

23.11.2021
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(H.S. Madaan)
Judge

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