

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CR No. 2778 of 2018 (O & M)
Date of decision : 7.9.2022**

Simarjeet Kaur and another**.....Petitioners**

Vs.

Sukhchain Singh and others**.....Respondents****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Parminder Singh, Advocate, for the petitioners
Mr. S.S. Kasan, Advocate, for the respondents

TRIBHUVAN DAHIYA, J. (Oral)

1. This is a revision petition filed under Articles 227 of the Constitution of India for setting aside the order dated 1.2.2018 (Annexure P-3), whereby the petitioners/plaintiffs' application for additional evidence to place on record the sale deed, has been dismissed.

2. Brief facts of the case are, the petitioners/plaintiffs filed a suit for declaration with consequential relief of permanent injunction to the effect that the alleged sale deed No. 703 dated 6.3.1996 is illegal, null and void *qua* the suit land. He had also pleaded unconscionable sale consideration with respect to the sale deed in question. During pendency of the trial, an application dated 28.10.2017 for additional evidence was filed by the petitioners/plaintiffs with a prayer that they may be allowed to summon registration clerk from the office of Registrar to prove the sale deeds No. 237 dated 31.5.1994, 243 dated 1.6.1994 and 407 dated 13.6.1991. It was also pleaded that the petitioners/plaintiffs did depose during their evidence and produced the sale deed No. 407 dated 13.6.1991.

The said sale deed was shown to the defendants' witness Nishabar Singh, who was attesting witness, but he evaded to admit genuineness of the said sale deed. On account of his evasive attitude, it has become necessary to prove registration of the sale deed No. 407 dated 13.6.1991.

3. The trial Court, vide the impugned order dated 1.2.2018 (Annexure P-3), has declined the petitioners/plaintiffs' prayer for leading additional evidence on the ground that the plaintiffs failed to explain why the evidence, which they wanted to adduce now by way of additional evidence, could not be produced by them while leading evidence in the affirmative. It was further observed that the plaintiffs had failed to explain the very purpose of leading evidence especially when there was no pleading pertaining to the aforesaid sale deeds in their plaint.

4. Learned counsel for the petitioners/plaintiffs has argued that they will be satisfied in case they are allowed to tender only certified copy of the sale deed No. 407 dated 13.6.1991, which was already put to the defendants' witness Nishabar Singh, and would not examine any witness in that regard.

5. A perusal of the plaint (Annexure P-1) establishes the petitioners/plaintiffs had taken the ground of unconscionable sale consideration of the sale deed in question. Besides, it is also not in dispute that the sale deed No. 407 dated 13.6.1991 was put to the defendants' witness Nishabar Singh, the attesting witness, at the time of his testimony before the Court. The only prayer being made by the petitioners/plaintiffs at this stage is, permission to tender a certified copy of this sale deed only. No witness is sought to be examined. Therefore, no prejudice is likely to be caused to the respondents/defendants in the eventuality of the prayer being accepted.

6. For the reasons aforesaid, the revision petition is allowed; the impugned order dated 1.2.2018 passed by the trial Court is set aside. The petitioners/plaintiffs are afforded one opportunity to tender certified copy of the sale deed No. 407 dated 13.6.1991 pertaining to Village Dharamgarh, registered in the office of Sub Registrar, Safidon, before the trial Court, subject to payment of Rs.10,000/-as cost to the respondents/defendants. No further opportunity for the purpose shall be granted to the petitioners/plaintiffs.

7. All the pending miscellaneous applications, if any, stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

7.9.2022

Ashwani

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