IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-5768 of 2018 (O&M)
Date of decision: 21.09.2022

Dera Sat Kartar (Regd.) **..Petitioner**

Versus

Paramjit Singh and others **..Respondents**

CR-4374 of 2011 (O&M)

Dera Sat Kartar Trust (Regd.) **..Petitioner**

Versus

Paramjit Singh and others **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.V.Sharma, Sr. Advocate, with
Mr. Tushar Sharma, Advocate
for the petitioner (in CR-5768 of 2018)

Mr. Vikas Singh, Advocate
for the petitioner (in CR-4374 of 2011)

Mr. Dhruv Khanna, Advocate, for
Mr. S.P.S.Aulakh, Advocate
for respondent no.2(iv).

ANIL KSHETARPAL, J(Oral)

Despite the service of notice, the respondent no.1 (plaintiff in the suit) has not entered appearance.

These two revision petitions have been filed by defendant no.3, assailing the correctness of the order dated 01.11.2004 (closing the evidence of the defendant no.2), 19.05.2018, rejecting the application filed by defendant no.3 (the petitioner) to recall the order dated 01.11.2004 and recall the witnesses examined by the plaintiff for further cross-examination.

The plaintiff's suit for grant of decree of declaration that the plaintiff and defendant no.1 are the owners in a joint possession of the suit

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land with the further declaration that the judgment and decree dated 02.06.1990, itself in a Civil Suit no.281 of 1990 is illegal, null and void as well as fraud with a consequential relief of permanent injunction is pending before the trial court. The suit was filed in the year 1996. On filing of the complete pleadings, the issues were framed in the year 1997. The trial court allowed the plaintiff to lead evidence by granting various opportunities between 1997 to January 2004 i.e nearly 7 years. However, when the opportunity to lead the evidence was granted to the defendant in the year 2004 itself, the court closed opportunity to defendant no.2 vide order dated 01.11.2004, while observing that defendant has been granted 7 effective opportunities for leading the evidence. It may be noted here that defendant no.2 had already transferred her rights in favour of defendant no.3, who was subsequently impleaded as a defendant in the said suit. An application filed by defendant no.2 for recall of the order dated 01.11.2004 has been dismissed by the court on the ground that it has been filed after a period of 8 months from the date of order dated 01.11.2004 and defendant no.3 is the assignee of rights of defendant no.2, therefore, has no right to lead the evidence.

Another application filed by the defendant no.3 to recall the plaintiff's witnesses for cross-examination has also been dismissed vide order dated 20.05.2011.

Undoubtedly, defendant no.3 has stepped into the shoes of defendant no.2, however, defendant no.2 did not lead any evidence. Defendant no.1 and 2 are reported to have died. Hence, there is no sufficient evidence led by the defendants. The dispute is with regard to the immovable property measuring 58 kanals 8 marlas. The validity of the judgment and

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decree has also been challenged by the defendants. Substantive rights of the petitioner (defendant no.3) are likely to be effected. Defendant no.3 is a religious organization. The trial court is required to grant sufficient opportunities to both the parties in an equal manner. On the one hand, the trial court permitted the plaintiff to lead evidence on the various dates of hearings spread over a period of 7 years, whereas the evidence of the defendant has been closed within a period of 10 months.

Keeping in view the aforesaid facts, Civil Revision No.5768 of 2018, is allowed. The orders dated 01.11.2004 and 19.05.2018, are set aside. The trial court is directed to grant two opportunities to the petitioner (defendant no.3 in a suit) to lead sufficient evidence in support of their case.

In Civil Revision No.4374 of 2011, the defendant no.3 prays for recall of the witnesses already examined by the plaintiff. It has been observed by the court that the learned counsel representing defendant no.1 and 2 has already cross-examined the witnesses examined by the plaintiff. Hence, no ground to recall the witnesses, is made out.

With all these observations, both the revision petitions are disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

September 21, 2022 **(ANIL KSHETARPAL)**
nt **JUDGE**

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

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