

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 672 of 2019

Date of Decision: 12.12.2022

Om Bhagwan

... Petitioner(s)

Versus

Krishan and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Kulvir Narwal, Advocate
for the petitioner(s).

Mr. Narinder Singh, Advocate
for the respondent No.1.

Mr. Viresh Dahiya, Advocate
for Mr. Deepak Balyan, Advocate
for the respondent No.2 and 3.

Mr. Rajinder Goel, Advocate
for the respondent No.4 and 5.

Anil Kshetarpal, J.

1. The correctness of the interlocutory order passed by the trial Court permitting the defendant No.1 to amend the written statement has been allowed.

2. The relevant facts, in brief, are required to be noticed. The petitioner herein is the plaintiff in a suit for possession by way of specific performance of the agreement to sell and for grant of decree of declaration. The suit was filed by impleading as many as five defendants. The plaintiff claims that Sh.Krishan, the defendant No.1, entered into an agreement to sell with him on 29.06.2011. The defendant No.1 has transferred the property through a registered sale deed executed in favour of defendant No.2 and 3

who, in turn, have transferred the property in favour of defendant No.4 and

5 vide another registered sale deed.

3. The defendant No.1 filed a written statement through Mr.U.S.Gudania, Advocate. He admitted the execution of the agreement to sell on receipt of earnest money and stated that the property in favour of the defendant No.2 & 3 and 4 & 5 has been transferred in a friendly transaction and the defendant No.2 and 3 would honour the agreement executed by the defendant No.1.

4. When the case was at an initial stage, the defendant No.1 filed an application for permission to amend the written statement. It was asserted that Mr. U.S.Gudania, Advocate, is working or has worked as junior in the office of Mr. M.S.Chhikara, the Advocate representing the plaintiff and Mr.U.S.Gudania never read over and explained the contents of the written statement to the defendant No.1. The trial Court has permitted the defendant No.1 to amend the written statement. This revision petition has been filed challenging the correctness of the said order.

5. The learned counsel representing the petitioner contends that allowing the amendment to the written statement shall result in the withdrawal of the admission made by defendant No.1. He further submits that there is no evidence to prove that Mr.U.S.Gudania, Advocate, has ever worked under Mr. M.S.Chhikara, Advocate.

6. On the other hand, the learned counsel representing the respondents contends that the trial Court has merely permitted the defendant No.1 to amend the written statement. They submit that this Court should not interfere in exercise of the revisional jurisdiction particularly when the case is at the initial stage.

7. It is well settled that any admission in the pleadings can be permitted to be explained. The cases are required to be decided on the basis of evidence led by the parties. In this case, serious allegations have been levelled against Mr. U.S.Gudania, Advocate. In such circumstances, it would not be proper for this Court to interfere in the exercise of revisional jurisdiction. However, the plaintiff shall be given an opportunity to prove that the original unamended written statement was filed by the defendant No.1 without any fraud or misrepresentation being acted upon him. The parties are yet to lead evidence. There is no absolute bar in permitting the parties to withdraw the admission. It all depends upon the facts and circumstances of the case. However, the plaintiff can pray before the trial Court for framing an independent/distinct issue on this aspect of the matter which shall be so framed and decided by the trial Court, in accordance with law.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order. Hence, the present revision petition is disposed of.

9. However, the observations made while disposing of the revision petition shall not be construed as final expression on the merits of the case. The trial Court shall decide the suit independently on the basis of the evidence so produced by the parties.

(Anil Kshetarpal)
Judge

December 12, 2022

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No