

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1851 of 2019(O&M)

Date of decision:07.03.2022

Swaran Kaur and others

...Petitioners

Versus

Sukhwant Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kamal Narula, Advocate, for the petitioners.
Mr. Yogesh Kumar, Advocate, for the respondents.

ANIL KSHETARPAL, J (Oral)

The petitioners are defendants in a suit for grant of decree of permanent injunction restraining the defendants from causing forcible, illegal and unauthorized interference into their peaceful possession over the plaintiffs' house constructed upon the land measuring 41 Marlas and 5 Sarsai.

Defendants contested the suit while asserting as under:-

“It is also important to mention here that with the intervention of the respectable of the village it was decided by them that plaintiff should hand over the possession of the plot marked with red colour with the attached site plan marked as BCEFGH which they have encroached upon illegally and forcibly to the defendants and also demolished the barthroom and toilet constructed on the portion of the defendants. The defendants along with Jaswant Singh Member, Kashmir Singh Ex. Sarpanch, Jeet Singh son of Dariya Singh, Baldev Singh son of Tika Singh and other persons consisting of panchayat approached the plaintiffs to hand over the possession of plot shown with red colour which was forcibly and illegally taken by the plaintiffs but

plaintiffs on one pretext or the other delayed the matter and ultimately refused to hand over the possession of the plot which is approximately 1 Marla 4 Sarsai marked as BCEFGH with the attached site plan.”

In an application for permission to compare the signatures of the plaintiffs through the evidence of a Handwriting and Finger Print Expert on the alleged panchayati compromise, ExD3, the court dismissed the same on the ground that such document is beyond the pleadings.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

From the reading of the extracted portion of para 4 of the written statement, it is evident that the defendants have in fact, asserted the fact which is sought to be proved by the evidence of Handwriting and Finger Print expert.

Moreover, the pleadings are required to be confined to the facts in a concise form and the evidence is not required to be made a part of the pleadings.

The learned counsel representing the respondents contends that the aforesaid panchayati compromise could not be permitted to be proved in evidence in the absence of specific pleadings to that effect.

The document sought to be produced and proved in evidence is not required to be pleaded in the pleadings. If the document sought to be produced in evidence is necessary to prove the case of a party to the suit, the Court will not shut its doors or debar him from producing the same only on the ground of lack of pleadings with respect to the aforesaid document.

Keeping in view the aforesaid facts, the revision petition is

allowed. The order dated 25.02.2019, passed by the Civil Judge (Jr. Divn.), Fazilka, is set aside. The trial court is directed to proceed with the matter.

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

March 07, 2022

**(ANIL KSHETARPAL)
JUDGE**

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No