

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1921 of 2019 (O&M)
Date of decision: 14.11.2022

Bhim and another

..Petitioners

Versus

Rajbir and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ishaan Bhardwaj, Advocate
for petitioner no.1.

Mr. Vikas Cuccria, Advocate and
Mr. Yadsimant Attri, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

1. The plaintiffs' suit for partition of the joint property was ordered to be dismissed on 23.10.2017. In the first appeal, the plaintiffs' application for permission to lead additional evidence has been dismissed by the Court.

The petitioners pray for production of the following documents:-

(1) Fard Badar

(2) Death Certificate issued by the Registrar, Births & Deaths with respect to late Sh. Risala (predecessor-in-interest of the parties).

2. The First Appellate Court has dismissed the application on the ground that the petitioners cannot be permitted to fill up the lacuna at this stage and no case to grant an opportunity to lead evidence has been made out.

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

4. The learned counsel representing the petitioners contends that Fard Badar is required to be produced as Smt. Bimla has relinquished her share in the joint property. He further submits that the death certificate issued by the Registrar, Births & Deaths is, per se, an admissible document and it would help the petitioners to prove that the parties could not enter into any family settlement during the lifetime of their father.

5. On the other hand, the learned counsel representing the respondents submits that the plaintiffs have already been given sufficient opportunities to lead their evidence for proving the assertions made in the plaint. Hence, no further opportunity is required to be granted.

6. The expression 'Fard Badar' denotes correction of revenue record maintained by the revenue authorities. It is not permissible to transfer an interest in the immovable property valuing Rs.100/- or more except by executing a registered document. It is not the case of the plaintiffs(petitioners) that there was a family settlement between the parties to the suit and Smt. Bimla Devi. In such circumstances, the production of 'Fard Badar' is not going to advance the case of the petitioners.

7. As regards the second document i.e. the 'Death Certificate' issued by the Registrar, Births & Deaths, it may be noted here that such a document is, per se, admissible. On the one hand, the plaintiffs pray for partition, whereas, on the other hand, the defendants claim that the parties have mutually partitioned the property vide sale deed dated 28.12.1984. In such circumstances, the production of 'Death Certificate' shall be helpful to the Court for adjudicating the case properly.

8. Hence, the impugned order is partly set aside. The petitioners are permitted to produce certified copy of the 'Death Certificate' of late Sh.

Risala, in evidence. The respondents shall also be granted an opportunity to lead counter evidence, if prayed for.

9. With these observations, the revision petition is disposed of.
10. All the pending miscellaneous applications, if any, are also disposed of.

November 14, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No