

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

121

(1)

CR-2089-2022

Date of decision: 04.07.2022

Malini Mehra

.....Petitioner

Versus

Kapil Yadav and others

.....Respondents

(2)

CR-2090-2022

Malini Mehra

.....Petitioner

Versus

Kapil Yadav and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Singh Parihar, Advocate and
Mr. Birinder Pal, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of the above referred two revision petitions as the issue involved in them is identical and between the same parties.

For the sake of convenience, the facts are being extracted from CR-2089-2022.

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 16.11.2019 (Annexure P/21) passed by learned Civil Judge (Jr. Divn.), Gurugram whereby an application (Annexure P-19) filed by the petitioner dated 16.04.2019 for seeking permission to file additional written statement in C.S. No.4501 of 2018 was dismissed.

Learned counsel for the petitioner submits that the impugned order is contrary to the settled principles of law pertaining to

subsequent pleadings under Order 8 Rule 9 of the CPC.

Learned counsel further submits that respondents No.4 and 5, who are mother and brother respectively of the petitioner, have been acting in collusion with plaintiff/respondent No.1 to deprive the petitioner of the benefits which would accrue to her out of the sale of the suit properties in the suits filed for possession by way of specific performance by plaintiff/respondent No.1. He still further submits that hurdles are being created by respondents No.4 and 5, in the sale of the suit properties so as to coerce the petitioner to give up her share in the estate left behind by her deceased father, Sh.Madho Lal Mehra.

Learned counsel furthermore submits that respondents No.2 to 5 in their joint written statement have distorted the factual position which on the face of it is contrary to the documentary evidence placed on record by the petitioner. He submits that respondents No.4 and 5 with an oblique motive, are bent upon to deprive the petitioner, who too has been impleaded as defendant No.5 before the trial Court in the suit in question, of her rightful share. He, thus, prays that the petitioner in the aforementioned facts and circumstances be permitted to file an additional written statement to counter the erroneous and misleading averments made by respondents No.2 to 5 in their joint written statement.

I have heard learned counsel and perused the relevant material on record.

Written statement is a statement made by a defendant in his/her defence wherein the allegations and claims made in the plaint

are either admitted or refuted by him/her. Further a defendant is entitled to take all his/her grounds of defence in his written statement, which may be available to him/her.

In the instant case, the petitioner is seeking permission to file additional written statement not to controvert the allegations or the claims made by the plaintiff/respondent No.1 in his plaint but to controvert the submissions made by respondents No.2 to 5 in their joint written statement. As already observed hereinabove, a written statement is only a reply of the defendant against the case set up by the plaintiff in his/her plaint. The defendant, hence, cannot be permitted to file additional written statement just for the purpose of controverting the stand taken by co-defendant(s). In case the prayer of the petitioner is accepted, the cause of the plaintiff/respondent No.1 would be relegated to the back burner and the suits which stand instituted by the plaintiff/respondent No.1 would proceed in an altogether different direction. It cannot be overemphasized that each of the defendants are required to plead their own individual case against the claim/case set up by the plaintiff.

As a sequel to the above, both the petitions are dismissed being devoid of any merit.

04.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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