

135 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2387-2022
Decided on : 19.09.2022

Smt. Omli

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Balraj Gujjar, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner is impugning the judgment dated 05.04.2022 (Annexure P-5) passed by Addl. District Judge, Bhiwani vide which the appeal preferred to impugn the dismissal of an application under Order 39 Rule 1 and 2 CPC by the learned Civil Judge (Jr. Divn.), Bhiwani, was dismissed.

Learned counsel for the petitioner submits that the Courts below failed to appreciate that the surety bonds were never executed by the petitioner and in fact had been forged and fabricated. He further submits that the petitioner is an old and illiterate lady who cannot even put her signatures on any document. However, strangely the surety bonds were alleged to have been signed by the petitioner, which by itself raises a big question mark about their authenticity and genuineness. He further submits that though the trial Court noticed the difference in the signatures of the petitioner on the surety bonds and the sale deeds placed on record, yet the

trial Court still erroneously went ahead and rejected the prayer of the petitioner. Learned counsel vehemently argued that even Hari Dutt and Surat Singh, who were shown to be attesting witnesses of the surety bonds, had denied being witness to any such surety bonds. He thus, submits that before initiating any recovery proceedings against the petitioner, it was incumbent upon the respondent to prove and establish the execution of the surety bonds by the petitioner. Therefore, it was urged that, in case temporary injunction was not granted, the petitioner would suffer irreparable loss, more so, when the balance of convenience lay in her favour.

Heard learned counsel and perused the relevant material available on record.

A perusal of the impugned order reveals that son of the petitioner namely Surjit Singh was working with Om Prakash as a partner in his liquor business with a share to the extent of 20%. Strangely, the petitioner has nowhere disclosed the said fact in her plaint and has been completely silent qua that. The petitioner moved a complaint to SSP, Bhiwani against six persons for taking action against them. However, even in that complaint the petitioner maintained a stoic silence about her son Surjit Singh's business relations with Om Parkash. The involvement of the son of the petitioner is a material fact, which would change the direction of the case. Learned counsel for the petitioner has not been able to controvert the said factum of the petitioner having not disclosed about the business relationship between her son Surjit Singh and Om Parkash. Therefore, this Court has no hesitation in observing that there had been material

concealment on the part of the petitioner while instituting the present suit. The Courts below have rightly observed that one who seeks equity must do equity, failing which the equitable relief of injunction cannot be granted to such party. Still further, whether or not the surety bonds were executed by the petitioner would be a matter of trial, and could be ascertained only when the evidence is adduced.

In the aforementioned facts and circumstances, this Court does not find any error in the impugned judgments and orders passed by the Courts below, hence, the instant petition stands dismissed, accordingly. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

19.09.2022

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