

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(116)

CR No.299 of 2023 (O&M)
Date of Decision: 01.08.2023.

Ramesh Kumar

.....Petitioner

Versus

Rahul Kumar

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWALPresent: Mr. Davinder Kumar, Advocate
for the petitioner.

VIKRAM AGGARWAL, J. (ORAL)**CM-2141-CII-2023**

A perusal of the record shows that this application already stands dismissed on 06.02.2023. However, there is no indication on the file that the same stands decided. It has been observed in most of the cases, the decided applications are tagged on the top of the paper book without there being any indications that the same stand decided. The decided applications were normally tagged at the end of the file subject to the latest instruction. In any case, there has to be some indication on the file as to whether the application is pending or has been decided. The Registrar Judicial is directed to seek explanation of the concerned official and to submit a report to this Court as to why the said procedure is not being followed any way there is no indication on the file with regard to the decision of the application.

CM-7597-CII-2023

Prayer in the present application is for placing on record the copy of agreement dated 25.01.2017 as Annexure P-6.

For the reasons mentioned in the application, the same is allowed and document (Annexure P-6) is taken on record.

Registry is directed to tag the same at an appropriate place.

CR No.299 of 2023

1. The present petition has been preferred under Article 227 of the Constitution of India assailing the order dated 04.11.2022 (Annexure P-5) passed by the Civil Judge (Jr. Division), Jagadhari, vide which the application filed by the petitioner under Order 26 Rule 10-A CPC for sending the original agreement to sell to the Forensic Science Laboratory was dismissed.

2. The respondent-plaintiff filed a suit for possession by way of specific performance of agreement to sell dated 25.01.2017, stated to have been executed by the present petitioner-defendant in favour of the respondent-plaintiff with regard to land measuring 4.5 marlas situated at Village Bhatauli, Tehsil Jagadhri, District Yamuna Nagar. The total sale consideration was stated to ₹15,50,000/- out of which a sum of ₹14,00,000/- is stated to have been paid as earnest moeny.

3. The petitioner-defendant filed a written statement taking a stand that certain signed documents of the petitioner-defendant had been misused by the respondent-plaintiff and had been utilized for converting them into an agreement to sell.

4. During the course of the trial, an application was filed by the present petitioner-defendant under Order 26 Rule 10-A CPC for sending the original agreement to sell to the Forensic Science Laboratory for obtaining its report with regard to the genuiness of the agreement to sell. The said application was dismissed by the trial Court, leading to the filing of the revision petition.

5. I have heard learned counsel for the petitioner.

6. Learned counsel for the petitioner submits that the order passed by the trial Court is not sustainable since the spacing in the agreement itself shows that blank signed papers were converted into an agreement to sell.

7. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

8. It is the pleaded case of the petitioner in the written statement that his signed blank papers had been misused by the respondent-plaintiff for preparing the agreement to sell in question, which, therefore, means that the signatures on the alleged agreement to sell were admitted. Under the circumstances, there would be no occasion for the trial Court to send the agreement to sell to the Forensic Science Laboratory. The stand taken by the petitioner would have to be proved by him by leading evidence. The learned trial Court, therefore, committed no error by rejecting the application. I, therefore, find no reason to interfere in the impugned order.

In view of the aforementioned facts and circumstances, I do not find any merit in the present revision petition and the same is accordingly dismissed.

01.08.2023

Rekha

(VIKRAM AGGARWAL)
JUDGE

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