

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(241) CR-3868-2018 (O&M)
Date of Decision : May 11, 2023

Puran Chand and others .. Petitioners

Versus

Vasakha Singh and others .. Respondents

(241-A) CR-3918-2018 (O&M)

Puran Chand .. Petitioner

Versus

Vasakha Singh and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Priya Singhi, Advocate, for
Mr. Nitesh Singhi, Advocate, for the petitioners.

Mr. Kulwant Singh, Advocate, for respondents No. 5 to 8.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two civil revision petitions, the details of which have been given in the heading of the order, are being disposed of as both the revisions arise out of the same facts.

2. In the present civil revision petitions, the challenge is to the order dated 14.03.2018 (Annexure P-3) by which, the trial Court has directed that the documents Ex.P-2 to P-4 be de-exhibited upon an application filed by respondents No. 5 to 8.

3. Learned counsel for the petitioners argues that there is no provision in the CPC to de-exhibit the document, which has already been exhibited but it is always open for the Court, while passing the final order as to whether, any document which has been brought on record, can be taken into account while passing the final judgment.

4. Learned counsel for the petitioners submits that the order dated 14.03.2018 (Annexure P-3) is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in ***SLP (C) No.14882-14883 of 2022 titled as Sirikonda Madhava Rao vs. N. Hemalatha and others, decided on 14.11.2022.***

5. Learned counsel appearing on behalf of respondents No. 5 to 8 submits that the document was not admissible as the same was already de-exhibited.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. Issue whether the document exhibited can be de-exhibited later on, has already been settled by the Hon'ble Supreme Court of India in ***N. Hemalatha's case (supra)***. Hon'ble Supreme Court of India has held that a document already exhibited, cannot be de-marked or de-exhibited later on as there is no such provision under law. The relevant paragraph of the said judgment is as under:-

“In view of the aforesaid position, we do not think that the impugned judgment passed by the High Court directing that the aforesaid document should be de-marked and not be treated as an exhibit, is correct and in accordance with law. Once a document has been admitted in evidence, such admission cannot be called in question at any stage of the suit or proceedings on the ground that the instrument has not been duly stamped. Objection as to admissibility of a document on the ground of sufficiency of stamp, has to be raised when the document is tendered in evidence. Thereafter, it is not open to the parties, or even the court to reexamine the order or issue. To this extent, the impugned judgment is set aside and the appeal is allowed.”

8. Keeping in view the above, impugned order dated 14.03.2018 (Annexure P-3) passed by the trial Court is perverse to the settled principle of law and cannot be sustained and is accordingly set aside.

9. It is made clear that the admissibility of the documents in question will be decided by the trial Court at the time of the passing of the final order as to whether the documents in question are admissible or not and that too by giving due reasons for the said conclusion.

Both the civil revision petitions are allowed in above terms.

CM-24309-CII-2019 and CM-24308-CII-2019

As the main civil revisions have been allowed, present applications stand disposed of.

May 11, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No