

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5784 of 2017 (O&M)
Date of Order: 31.07.2023

Nathu Ram (Deceased) through LRs

.Petitioner

Versus

Jindo Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajesh Kumar Bhagal, Advocate,
for the petitioner.

Mr. J.S.Mehndiratta, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. The petitioner herein is the plaintiff in a pending suit for the grant of decree of declaration that he is the owner in possession of a house. Defendant has filed a counter claim on the basis of a memorandum of family settlement dated 17.12.2002. The plaintiff while filing the reply denies the existence of memorandum of family settlement.

2. On 07.08.2015, the court culled out the following issues:-

- “1. Whether the plaintiff is entitled to the suit for declaration as prayed for?OPP
2. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?OPP
3. Whether the suit of the plaintiff is legally not maintainable?OPD
4. Whether the plaintiff has no locus standi and cause of action to file the present suit?OPD

5. Whether the plaintiff has concealed the true and material facts from the court?OPD

6. Relief.”

“1. Whether the counter-claimants are entitled to the relief of permanent injunction as prayed for?O.P. Counter-claimant/OPD

2. Whether the counter-claim is not maintainable ?OPP

3. Whether the counter-claimant has no locus standi and cause of action to file the present counter-claim?OPP

4. Relief.”

3. The parties were permitted to lead evidence. When the case was at the stage of rebuttal and arguments, an application was filed by the plaintiff to frame a distinct issue on the existence and validity of the memorandum of family settlement, which has been dismissed by the learned trial court on the ground that the issues already framed are comprehensive.

4. This revision petition has been filed to challenge the correctness of such order.

5. The learned counsel representing the parties, after arguing at some length, have come to a consensus. They pray that the trial court should be directed to cull out a distinct and separate issue on the memorandum of family settlement dated 17.12.2002, while giving two opportunities to both the parties to lead evidence thereon within a period of one month.

6. Keeping in view the aforesaid consensus, the revision petition is disposed of while requesting the trial court to frame a distinct issue on the memorandum of family settlement and permit the parties to lead evidence

and thereafter decide the suit in an expeditious manner.

7. All the pending miscellaneous applications, if any, are also disposed of.

July 31, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO