

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

136

2023:PHHC:125869

CR-660-2019

Date of decision: 25.09.2023

BALESHWAR DUBEY AND ANOTHER

..Petitioners

Versus

RAMESH CHANDER AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mohd. Yousaf, Advocate
for the petitioner.

Mr. Sherry K. Singla, Advocate
for respondent No.1.

Mr. T.S. Sidhu, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. Through this revision petition, the defendant in the trial Court challenges the correctness of the order passed by the trial Court on 14.01.2019, while dismissing his application for permission to amend the written statement.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The plaintiff filed a suit for grant of decree of mandatory injunction directing the defendants to remove a wall 'XY' constructed by defendant No.1 to 4 on the street depicted as 'LM' in the site plan attached with the plaint.

4. On the other hand, the defendants while contesting the suit claimed that the suit property is owned by them. During the pendency of the suit, the defendant filed an application for permission to amend the written statement to the following effect:-

“2(a) Defendant No.1 has purchased ½ Marla out of the suit property including other adjoining to his house which is part of Khasra No.16(8-0) and out of which 11 X 16 has been sold by Debo Devi to defendant No.1 through a sale deed dated 04.02.2013 in which defendant No.1 and 4 has constructed their house. This part of the property was owned and possessed by Debo Devi and they have sold the property after curbing out the plot.”

5. The application as already noticed was dismissed on the ground that the same has been filed after a long unexplained delay.

6. On the one hand, the learned counsel representing the petitioners contends that the registered sale deed as mentioned in the application would help the Court in properly adjudicating the dispute.

7. On the other hand the learned counsel representing the respondents submit that the application has been filed after an unexplained delay. He further submits that he has no objection if the sale deed is produced in the evidence by the defendants.

8. As per Order VI Rule 2 of the Code of Civil Procedure, 1908, by filing the pleadings, the parties are required to state the facts concisely and precisely. The evidence is not required to be incorporated in the pleadings. The defendants while filing the written statement had already stated that the suit property belongs to them and the plaintiff has no right, title or interest in the same. The existence of the street had also been denied by the defendants.

9. The production of sale deed is a matter of evidence. It is for the defendants to prove that the suit property is not part of the street. In such circumstances, there is no requirement to amend the pleadings. As correctly

contended by the learned counsel representing the respondents, the defendants can produce the same in evidence.

10. With these observations, the revision petition is disposed of.

11. The trial court while finally deciding the suit shall not exclude the sale deed, if any, produced in evidence from consideration on the ground that it is beyond the pleadings of the parties.

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

September 25th, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

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