

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

277

CR No.3055 of 2019

Reserved on : 11.01.2023

Date of Decision : 24.01.2023

Sucha Singh

....Petitioner

VERSUS

Jaswinder Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Verma, Advocate for the petitioner.

Mr. Sarju Puri, Advocate for the respondent.

ALKA SARIN, J.

The present revision petition has been filed under Article 227 of the Constitution of India impugning the order dated 01.05.2019 vide which the application filed by the plaintiff-petitioner for leading additional evidence was dismissed.

The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for specific performance of agreement to sell dated 30.07.2012. During the course of arguments, a submission was raised by the counsel for the defendant-respondent that PW3, Ranjit Singh, who had stepped into the witness-box to prove the agreement to sell in dispute (Ex.P1) was not in India on the date of execution of the agreement i.e. 30.07.2012. On the asking of the counsel for the defendant-respondent, Ranjit Singh produced his British passport whereas it had categorically been stated by Ranjit Singh that he was holding an Indian passport which was not produced during the course of testimony. The stand taken by the counsel for the plaintiff-petitioner was that since Ranjit Singh was travelling on an Indian passport he was not required to obtain a visa to visit India. The

counsel appearing on behalf of the plaintiff-petitioner stated that a copy of the Indian passport had been obtained which shows that in July 2012 Ranjit Singh was in India. The contention of the counsel for the defendant-respondent was that a person cannot hold two passports; one being a British passport and second being an Indian passport and that Ranjit Singh had only produced his British passport and did not produce the Indian passport to show his presence in India at the time of execution of the agreement to sell. PW3, Ranjit Singh, was cross-examined on 21.08.2018 and thereafter the evidence of the plaintiff-petitioner was closed. On 12.12.2017, during the cross-examination of PW3, Ranjit Singh, he was especially asked to bring his passport on the next date, so as to show his presence in India on the day of execution of the agreement to sell in dispute. However, only the British passport was produced. During the course of final arguments, an application was filed for producing the Indian passport of Ranjit Singh as additional evidence. The Trial Court vide order dated 01.05.2019 dismissed the said application.

Learned counsel for the plaintiff-petitioner would contend that production of the document was very much essential to prove that PW3, Ranjit Singh, was present in India at the time of execution of the agreement to sell.

Per contra learned counsel for the defendant-respondent has pointed out that PW3, Ranjit Singh, in his cross-examination had categorically stated that he did not remember as to when he visited India after 2010 and hence production of the said document would be totally irrelevant. It is further the contention that there has been no due diligence and despite PW3, Ranjit Singh, being especially asked to bring his passport

to show his presence in India, he only produced the British passport and not the Indian passport on which he is alleged to have travelled to India. It is further the contention of learned counsel for the defendant-respondent that only a coloured photocopy of the Indian passport was attached with the application.

I have heard learned counsel for the parties.

In the present case PW-3, Ranjit Singh, had stepped into the witness-box to prove the execution of the agreement to sell (Ex.P1). However, on 12.12.2017 during the course of his cross-examination he was asked to bring his passport so as to show his presence in India on the day of execution of the agreement to sell. However, PW3, Ranjit Singh, only produced his British passport and not the Indian passport on which he is alleged to have travelled to India. Even by way of the application for additional evidence, only a coloured photocopy of the Indian passport was sought to be produced. The Trial Court rightly held that from a coloured photocopy of the passport it could not be ascertained whether the same was genuine or not. An application for additional evidence cannot be allowed to fill-in the lacuna in the case. The plaintiff-petitioner had sufficient opportunity to produce the Indian passport of PW3, Ranjit Singh, on the record and especially when on 12.12.2017 the said Ranjit Singh was also asked to bring his original passport. Further, along with the application for additional evidence only a coloured photocopy of the Indian passport as purportedly held by Ranjit Singh was sought to be produced. The application for additional evidence is also bereft of any reason for not producing the Indian passport of Ranjit Singh earlier. The Trial Court has rightly dismissed the application for additional evidence.

In view of the above, I do not find any illegality or infirmity in the impugned order passed by the Trial Court. The present revision petition, which is wholly devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

24.01.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO