

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4370-2019 (O&M)

Date of Decision : 17.04.2023

Baldev Kumar Tandon

.....Petitioner

VERSUS

Krishan Kumar Tandon

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Dhruv Mittal, Advocate for the petitioner.

Mr. S.K. Rattan, Advocate for the respondent.

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ALKA SARIN, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India challenging the order dated 29.05.2019 passed by the Additional Civil Judge (Sr. Division), Nakodar declining the application for additional evidence filed by the plaintiff-petitioner herein.

2. The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for recovery of Rs.10,20,000/- as detailed in the plaint along with future *pendente lite* interest and costs. During the pendency of the suit, after the testimony of the plaintiff-petitioner was recorded, an application for amendment of pleadings was filed which application was dismissed. Against the said order, CR-7951-2016 was filed which was also dismissed vide order dated 27.04.2018. Thereafter, the present application

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was filed for additional evidence seeking to produce an agreement dated 20.01.2006 regarding a mutual partition. Reply was filed to the said application. Vide the impugned order, the said application was dismissed. Hence, the present revision petition.

3. Learned counsel for the plaintiff-petitioner would contend that the document now sought to be produced on the record is necessary for the decision of the present case and even though the same does not find mention in the plaint as well as in the statement of the plaintiff-petitioner, however, the same can be looked into and hence ought to have been allowed to be produced on record.

4. *Per contra*, learned counsel for the defendant-respondent has contended that the plaintiff-petitioner had already filed an application under Order 6 Rule 17 CPC to incorporate the fact regarding the document which application stood dismissed on 17.10.2016 and thereafter the same was challenged in CR-7951-2016 which was also dismissed vide order dated 27.04.2018. Learned counsel would further argue that the document sought to be led as additional evidence is beyond the pleadings of the parties and does not even find mention in the statement of the plaintiff-petitioner.

5. Heard.

6. In the present case, as is apparent from the impugned order, that earlier the document was sought to be brought on the record by the plaintiff-petitioner by way of amendment of the plaint by filing an application under Order 6 Rule 17 CPC which application was dismissed vide order dated 17.10.2016. Against the said order CR-7951-2016 was filed which was also

dismissed on 27.04.2018. The said order attained finality and thereafter the present application for additional evidence was filed regarding the same document. The learned counsel for the plaintiff-petitioner is not in a position to deny the fact that the said document recording the mutual partition does not find mention in the plaint or in the affidavit Ex.PW1/A filed by the plaintiff-petitioner Baldev Kumar Tandon while appearing as PW-1. The suit is at the stage of rebuttal and arguments. It is trite that no amount of evidence can be looked into without there being any pleadings to that effect. In the present case, neither there are any pleadings nor any mention of the said document has been made in the affidavit Ex.PW1/A filed by the plaintiff-petitioner while appearing as PW-1.

7. In view of the above, I do not find any merit in the present revision petition which is wholly devoid of any merit. The same is accordingly dismissed. Pending applications, if any, also stand disposed off.

8. Dismissed.

April 17, 2023
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(ALKA SARIN)
JUDGE

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