

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4677-2023(O&M)

Date of decision:- 22.08.2023

Gurmeet Ram

....Petitioner

Versus

Surjit Singh and Ors.

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Saurav Bhatia, Advocate and
Mr. K.S.Billing, Advocate for the petitioner.

AMARJOT BHATTI, J.

1. The petitioner-Gurmeet Ram has filed the present civil revision against impugned order dated 01.08.2023 (Annexure P-12) passed by the court of learned Additional Civil Judge, (Senior Division), Shaheed Bhagat Singh Nagar vide which the application of the petitioner for permission to lead additional evidence regarding registered Will dated 17.12.1985 was dismissed and with further prayer for setting aside the impugned order dated 24.02.2023 (Annexure P-9) vide which the evidence of the petitioner was closed by order in the aforesaid case.

2. Learned counsel for the petitioner pointed out that the petitioner/plaintiff had filed suit for declaration that he is owner in possession of the suit property with consequential relief of permanent injunction. The copy of plaint is Annexure P-1 and copy of written statement is Annexure P-2. He had also filed application under Order 39 Rules 1 and 2 of CPC which is Annexure P-3. The issues were framed on

27.08.2021 and the evidence of the plaintiff commenced. The stay application was decided vide order dated 27.08.2021 which is Annexure P-5. In the meantime, the plaintiff also filed application for amendment of the plaint, which was also allowed vide order dated 25.03.2022 which is Annexure P-7. After the filing of amended plaint, no fresh written statement was filed and the case was again fixed for plaintiff's evidence.

3. Learned counsel for the petitioner conceded that the petitioner was granted 08 effective opportunities to complete the evidence. The marginal witnesses had to be examined to prove the execution of Will but it was revealed that the witnesses had already expired, therefore, he was required to summon their LRs to prove the execution of Will. In the meantime, the evidence of the plaintiff was closed by order by passing impugned order dated 24.02.2023 (Annexure P-9) and the case was fixed for evidence of the defendants. He also filed application to lead additional evidence to produce and prove the registration of Will dated 17.12.1985. The application was contested by the defendants and it was ultimately dismissed vide order dated 01.08.2023 (Annexure P-12). It is pointed out that there was some delay on his part to conclude the evidence. The other party can be compensated by imposing cost. It was prayed that the aforesaid impugned order dated 24.02.2023 (Annexure P-9) and order dated 01.08.2023 (Annexure P-12) passed by learned Additional Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar may kindly be set aside and the petitioner may be granted reasonable opportunity to conclude his evidence.

4. I have heard the arguments and have gone through the record. The plaintiff-Gurmeet Ram i.e. the present petitioner filed suit for

declaration claiming his ownership and possession over the plot measuring 06 marlas along with construction and the relief of permanent injunction as detailed in the plaint. The copy of plaint is Annexure P-1. The suit is filed against Surjit Singh s/o Late Sant Ram as well as Jagseer Singh and Amarjit Kaur who are son and wife of defendant No.1 respectively. The contents of the plaint indicate that the plaintiff had purchased this plot from the LRs of deceased Bhajan Singh vide registered sale deed dated 18.09.2017 and the possession was allegedly delivered to him by the real owner of the property at the time of sale deed. The said Bhajan Singh was father of Veena Kumari, Simarjit Kaur, Karamjit Kaur and husband of Gurdev Kaur. As per the case of plaintiff his vendors were owners of the property on the basis of registered Will dated 17.12.1985 executed by Late Sant Ram. The petitioner/plaintiff does not belong to the family of vendors or the defendants. He must have no knowledge about the witnesses of said Will. Now the petitioner wants to lead additional evidence regarding the aforesaid Will dated 17.12.1985 to prove the same as his evidence was closed by order by passing order dated 24.02.2023 (Annexure P-9). The application filed by the petitioner for additional evidence was also declined vide order dated 01.08.2023 (Annexure P-12). The learned counsel for the petitioner explained that the execution of Will could not be proved by examining witnesses as they had already expired and he was required to summon the LRs or other witnesses to prove the execution of said Will.

Therefore, considering the matter in controversy, the evidence required to be led by the petitioner is material and it is also needed for the final adjudication of the matter in controversy. The respondents are not

required to be served in this case as it would have further led to delay in the litigation as well as unnecessary litigation expenditure. However, the respondents can be compensated by imposing cost.

With this observation, the civil revision filed by the petitioner/plaintiff is accepted. The impugned orders dated 24.02.2023 (Annexure P-9) and 01.08.2023 (Annexure P-12) are accordingly set aside and the petitioner/plaintiff is granted two effective opportunities within a span of one month to conclude their evidence at own responsibility subject to payment of cost of Rs.15,000/- in favour of the defendants and at the same time the trial Court is further directed to give two effective opportunities to the defendants within a span of one month to lead their evidence in rebuttal to the same.

Accordingly, the civil revision is disposed of.

Pending application(s) if any, also stands disposed of.

22.08.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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