

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CR-4548-2017 (O&M)
Date of decision: 13.02.2024

HARINDER PAL SINGH (DECEASED) THROUGH LRS.

..Petitioner

Versus

UNION OF INDIA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivender Pal Singh, Advocate
for Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Charanjit Singh Bakshi, Addl. P.P., U.T., Chandigarh
for respondent No.2 to 4.

Mr. Parveen Chauhan, Advocate
for Mr. Gagandeep Singh Wasu, Advocate
for respondent No.5-CBI.

Mr. Prateek Gupta, Advocate
for respondent No.9.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, interlocutory order passed by the First Appellate Court while dismissing the petitioner’s application for permission to lead additional evidence under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (hereinafter referred to as the ‘CPC’), is challenged. The petitioner wishes to produce and prove the following documents:-

“1. Certified copy of order dated 9.3.2002 passed on application under Order 1 Rule 10 CPC by S.H. Sachdev, the then learned CJ(JD), Chandigarh in civil suit titled as Neena Sahai Vs. Bhupinder Singh and others.

2. Copy of judgment and decree dated 11.3.2008 passed by the Court of Sh.Balwant Singh, the then learned

CJ(JD), Chandigarh in civil suit titled as Neena Sahai Vs. Bhupindr Singh and others.

3. Copy of judgment and decree dated 23.4.2003 passed by the Court of Sh.Rakesh Kumar Yadav, the then learned ADJ, Chandigarh in civil appeal titled as Neena Sahai Vs. Bhupindr Singh and others.

4. Application under Order 1 Rule 10 of CPC filed by NS Achreja for deletion of his name from the array of defendants in civil suit titled as Indervikram Vs. Bhupinder Singh and others.

5. Copy of order dated 17.5.2001, passed by Sh.Ajay Singal, the then learned CJ(JD), Chandigarh in civil suit titled as Indervikram Vs. Bhupinder Singh and others.

6. Intimation to the Hon'ble High Court for grant of general permission to M.S. Walia to leave his head quarter on week ends and holidays.”

2. The First Appellate Court has dismissed the application on the ground that these documents were already in the knowledge of the petitioner and therefore, the same cannot be permitted to be led in evidence.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the petitioner submits that authenticity of all the documents cannot be doubted as these are part of official record of the Court. He submits that these documents would help the First Appellate Court to decide the matter in accordance with the law.

5. On the other hand, the learned counsel representing the respondents submits that interference in the order passed by the First Appellate Court is not appropriate because it would result in delay in disposal of the appeal.

6. It is evident that the petitioner (appellant before the First Appellate Court) is a Non-Resident India (NRI). He is not residing in India.

He has filed a suit for possession claiming that on total payment of the price of the property, he was put in possession but conveyance was not executed, however, the then owner-defendant No.8 executed a Will in his favour and also general power of attorney in favour of Sh. Gurmeet Singh. It is the case of the petitioner that he permitted Sh. M.S. Walia, his nephew to reside in the house, however, he was transferred. Thereafter, with the help of the Police, the possession of the property was forcibly taken over by the defendants.

7. Order XLI Rule 27 of the CPC is in three part. Clause (b) of Order XLI Rule 27(1) enables the Appellate Court to admit any document or examine any witness, which enables it to pronounce judgment or for any other substantial cause. In this case, the document sought to be produced in evidence including copies of two judgments and decrees and two orders passed by the Courts from time-to-time. Certified copy of application under Order I Rule 10 of the CPC and intimation given to the High Court for grant of general permission to Sh. M.S. Walia, is also sought to be produced. Such documents are relevant and crucial to the decision of the case. The First Appellate Court has erred in refusing to permit the petitioner to produce and prove the same.

8. It is a well known legal principle that the rules or procedures are handmaids of justice.

9. Even if the documents were in the knowledge of the petitioner, the same could be allowed, subject to payment of some cost in order to advance the cause of justice.

10. Keeping in view the aforesaid facts and discussion, the revision petition is allowed. The impugned order dated 16.05.2017, is set aside.
11. All the pending miscellaneous applications, if any, are also disposed of.

February 13th, 2024
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(ANIL KSHETARPAL)
JUDGE

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