

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CR-923-2015 (O&M)
Date of decision: 05.02.2024

BALDEV SINGH AND ANR

..Petitioners

Versus

GAGAN DEV BHARTI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Brijender Kaushik, Advocate
and Mr. Vaibhav Vats, Advocate
for the petitioner.

Ms. Prarthana Duggal, Advocate
for Mr. Namil Khurana, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition filed under Article 227 of the Constitution of India, the plaintiffs pray for setting aside the interlocutory order passed by the trial Court on 18.11.2014, while dismissing their application under Order VI Rule 17 read with Order I Rule 10 of the Code of Civil Procedure, 1908.

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

3. The plaintiffs filed a suit for recovery of Rs.70,00,000/- claiming that the defendant has failed to pay the balance consideration pursuant to two sale deeds executed by him in favour of defendant on 28.12.2007, and 31.12.2007.

4. On 06.07.2013, plaintiff No.1 appeared in evidence. During his cross-examination, the plaintiff No.1 admitted that he had already received

the entire sale consideration before executing the sale deeds. Thereafter, the plaintiffs filed the application for permission to amend the plaint in order to claim that the defendant had borrowed some amount from them for opening an educational institution and the plaintiffs also prayed for impleadment of subsequent vendee to whom the property had been transferred by defendant. The trial Court dismissed the application filed for the amendment of the plaint.

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

6. The learned counsel representing the petitioners contends that in the proceedings initiated under Section 138 of the Negotiable Instruments Act, 1881, the parties entered into a settlement and fresh cheques were issued in favour of the plaintiffs. He submits that the trial Court should have allowed the application considering the aforesaid development.

7. This Court has considered the submissions of the learned counsel representing the parties.

8. The plaintiffs have already filed a suit for recovery of the amount by alleging that the sale consideration has not been paid and two cheques issued by the defendant were dishonoured.

9. In these circumstances, the plaintiffs now want to entirely change his stand by taking a plea of friendly loan. The plaintiffs want to set up a totally different case from his original pleadings. The trial of the case is at an advanced stage. The suit was filed in the year 2010. As already noticed, the plaintiffs are already leading their evidence.

- 10. Keeping in view the aforesaid facts, no ground to interfere is made out.
- 11. Dismissed accordingly.
- 12. All the pending miscellaneous applications, if any, are also disposed of.

February 05th, 2024
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(ANIL KSHETARPAL)
JUDGE

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