

CR-2596-2022(O&M)
Date of decision :26.04.2024

...Petitioner

...Respondents

Mr. Shivam Kamboj, Advocate
for respondent No.2.

ANIL KSHETARPAL, J. (Oral)

4. Sh. Sukhmander Singh son of Sh. Makhan Singh sold the land measuring 07 kanals in favour of the petitioner (defendant No.2) vide registered sale deed dated 19.11.2013. Smt. Sharanjeet Kaur sister of

Sh. Sukhmander Singh filed a suit for declaration that the plaintiff is owner in possession of half share and the Will dated 04.09.2007, allegedly executed by Sh. Makhan Singh is null, void, result of fraud and misrepresentation. She also claims that the sale deed executed by her brother on 19.11.2013, is illegal, null and void and the suit property is an ancestral joint Hindu family property. The defendant No.2 filed the written statement contesting the suit on various grounds including that the plaintiff has no right in the property. The evidence of the defendant No.2 was closed by the Court's order on 26.05.2022. Thereafter, the petitioner filed an application for additional evidence, which has also been dismissed.

5. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

6. Learned counsel representing the petitioner while impugning the order submits that the documents proved that some land was received from his aunt (sister of the father), hence, the property is not proved to be an ancestral joint Hindu family property. He submits that these documents are part of the official record and are required to be tendered in evidence. These documents are per se admissible and not required to be proved by leading evidence.

7. On the other hand, the learned counsel representing the respondents submits that these documents have not been made part of the pleadings in the written statement as the petitioner has failed to show relevance and she availed as many as 18 opportunities, over a period of three years, before the evidence was closed.

8. This Court has considered the submissions of the learned counsel

for the parties.

9. With regard to the first objection of the learned Counsel representing the respondents, it will be noticed that under Order 6 Rule 2 of the Code of Civil Procedure, 1908 only the relevant facts in summary manner are required to be stated in the pleadings. The evidence is not required to be made part of the pleadings. With regard to the second objection of the learned counsel representing the respondents, it is evident that the documents are relevant for proper adjudication of the case. One of the ground on which the sale deed has been challenged is that the property is ancestral. The petitioner herein is a vendee for valuable consideration. She is required to be given proper opportunity to prove her case and make attempt to save the sale deed in her favour. With regard to the third objection, it will be noted that the petitioner has filed an application for additional evidence. She is seeking to produce evidence, which is material and important for the adjudication of the case. It is well known that the rules of procedure are handmaids of justice. The trial Court has also dismissed the application on the aforesaid reasons.

10. Hence, the revision petition is allowed. The order dated 02.07.2022, is set aside. The petitioner shall be permitted to produce evidence. If the plaintiff prays for opportunity to lead evidence to rebut the additional evidence produced by the petitioner, she will be granted an opportunity.

(ANIL KSHETARPAL)
JUDGE

26.04.2024
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No