

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140

CR-3430-2023 (O&M)
Date of Order:05.02.2024

SURJIT SINGH @ AJIT SINGH @ JEET SINGH

.Petitioner

Versus

SUKHCHAIN SINGH AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raman Mohinder Sharma, Advocate, for the petitioner.

Mr. Jagjot Singh, Advocate, for the respondents.

ANIL KSHETARPAL, J

1. The plaintiff's suit for grant of decree of declaration and joint possession with respect to 9 kanals land is pending before the trial court.

2. During the pendency of the suit, an application was filed by defendant no.3 and 4, for directing the plaintiff to produce mutation no.16575 and order dated 04.01.1988, passed by the Assistant Collector Ist Grade, Sunam, in file No. 117, dated 06.07.1987. The aforesaid application was allowed and the direction has been issued to the plaintiff to produce those documents, though the plaintiff has already stated that he is not in possession of the copy of the order dated 04.01.1988, as well as mutation No.16575.

3. The learned counsel representing the respondents submits that the copy of the mutation no.16575, is already on the record.

4. The learned counsel representing the petitioner submits that the report of the competent authority has already been produced before the court to prove that the file of case No.117, dated 06.07.1987, in which the order dated 04.01.1988, was passed by the Assistant Collector Ist Grade, Sunam, is not traceable.

5. It is evident that the court while disposing off the application has held that if the plaintiff fails to produce the order dated 04.01.1988, passed by the Assistant Collector Ist Grade, Sunam, then an adverse inference shall be drawn against him. The correctness of the aforesaid order is challenged before this court.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. Though, the court has enabling power to draw adverse inference if the best evidence is not produced before the court. However, such adverse inference is required to be drawn while finally deciding the case. At this stage, the plaintiff has categorically taken a stand that he is not in possession of the order passed on 04.01.1988, passed by the Assistant Collector Ist Grade, Sunam. In such circumstances, the trial court has erred while observing that if the plaintiff fails to produce the order dated 04.01.1988, an adverse inference shall be drawn against him.

8. Keeping in view the aforesaid facts and circumstances, the order dated 06.03.2023, is set aside.

9. With these observations, the revision petition is disposed of.

10. All the pending miscellaneous applications, if any, are also disposed of.

February 05, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO