



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4483-2024 (O&M)
Date of Decision : 21.08.2024

Usha Dhawan ... Petitioner(s)
Versus
Manjit Singh and Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Bhavesh Aggarwal, Advocate for the petitioner.
Mr. Y.M. Bhagirath, Advocate for the respondents.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India impugning the order dated 18.01.2024 (Annexure P-8) whereby the application filed by the plaintiff-petitioner for leading additional evidence has been dismissed.
2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for specific performance of agreement to sell dated 24.05.2006 qua land measuring 2B-0B-98 Kham comprised in Khasra No.290/7/3, 291/3-292/1/3-292/1/5 situated at village Daba, Tehsil and District Ludhiana as also for permanent injunction. In para Nos.1 to 3 of the plaint the factum of the agreement to sell dated 24.05.2006 was mentioned. In the written statement filed by the defendant-respondents, a categorical stand was taken in the preliminary objections as well as in para Nos.1 to 3 on merits that the alleged agreement dated 24.05.2006 was an act of fraud and was a forged and fabricated document and was never executed by defendant-

respondent Nos.1 to 3. Affidavit in examination-in-chief was filed by DW-1 on 22.07.2022. In 2024 the present application was filed for permission to lead additional evidence on the ground that DW-1 had denied the signatures and hence the necessity to examine a Handwriting and Fingerprint Expert in order to prove the signatures of defendant-respondent Nos.1 to 3. Reply was filed to the said application and vide the impugned order dated 18.01.2024 the application was dismissed. Hence, the present revision petition.

3. Learned counsel for the plaintiff-petitioner would contend that it is only for the first time in the affidavit filed in examination-in-chief by DW-1 that the signatures on the agreement were denied and hence the application for additional evidence ought to have been allowed. In support of his contentions the learned counsel has relied upon the judgment of this Court in the case of **Karanjeet Singh Vs. Amarpreet Singh [2018(3) PLR 71]**.

4. *Per contra*, the learned counsel for the defendant-respondents has contended that in the written statement filed by the defendant-respondents there was a specific denial regarding the agreement to sell dated 24.05.2006 and it was specifically stated in the preliminary objections as well as in para Nos.1 to 3 on merits that the alleged agreement dated 24.05.2006 was an act of fraud and was a forged and fabricated document which was never executed by them and hence the argument of the learned counsel for the plaintiff-petitioner that it is only for the first time that the signatures were denied is totally belied. The learned counsel has further pointed out that arguments in the present case have also been addressed.

5. I have heard the learned counsel for the parties.

6. In the present case the suit was filed for specific performance of agreement to sell dated 24.05.2006 which was alleged to have been executed by defendant-respondent Nos.1 to 3. In the written statement filed by the defendant-respondents it was specifically averred that the defendant-respondent Nos.1 to 3 had never executed any alleged agreement to sell dated 24.05.2006 and that the same was a false, forged and fabricated document. The argument of the learned counsel for the plaintiff-petitioner that it is for the first time that the signatures were denied in the affidavit filed in examination-in-chief by DW-1 and hence the necessity of filing an application for additional evidence deserves to be rejected. Once the defendant-respondents had specifically taken the stand in the written statement that the agreement was a forged and fabricated document, it was incumbent on the plaintiff-petitioner to have led her evidence in the affirmative proving otherwise. Issue (a) specifically reads as under :

(a) Whether the plaintiff is entitled to specific performance of agreement to sell dated 24.05.2006 as prayed for ? OPP

7. A perusal of the issue as framed reveals that the onus was specifically cast upon the plaintiff-petitioner and it was for her to lead her evidence in the affirmative to prove that she was entitled to specific performance of the agreement to sell dated 24.05.2006. The application for additional evidence appears to be only an endeavour to fill in the lacuna in the case as well as to delay the proceedings.

8. This Court in the case of **Smt. Daljit Kaur Vs. Smt. Amarjit**

Kaur & Anr. [2014(69) RCR (Civil) 801] has held as under :

“Thus, all these judgments, relied upon by learned counsel for the respondent are relating to leading of documentary evidence which were more or less per se admissible in evidence unlike the evidence which is sought to be produced by way of additional evidence in the present case in the form of oral evidence by examining Gurmeet Singh son of Surinder Singh Lambardar to prove the signatures of his father who alleged to have attested the Will and also by producing on record the report and examining the Handwriting and Fingerprint Expert to prove signatures of Surinder Singh Lambardar, which could have been done by defendant no.1 at the time of leading her evidence in affirmative or if she was so aggrieved, could have challenged the order of closure of her evidence by way of revision to avail an opportunity for leading the said oral evidence but in any case, keeping in view the facts and circumstances of the present case, such kind of oral evidence cannot be allowed to be led by way of additional evidence especially when the case was fixed for pronouncement of order, after having been argued on the basis of the evidence on record, to fill up the lacuna left by defendant no.1 in her evidence.”

9. In the case of **Bhim Raj Vs. Jai Bhagwan [2000(3) RCR (Civil) 16]** this Court has held as under :

“6. In the present case as well, the evidence of the defendants was closed by the court order and this order was not challenged by the defendants by way of revision or otherwise and the said order has become final. Thereafter the defendants could not be allowed to produce same evidence by way of additional evidence

without bringing their case strictly within the provisions of Order 18 Rule 17-A, Civil Procedure Code. In the present case, there is nothing on record to show that the defendants could not produce their evidence inspite of exercise of due diligence. Under these circumstances, the petitioner would not be entitled to produce the additional evidence at this stage.”

10. The judgment in the case of **Karanjeet Singh** supra would not come to the aid of the petitioner inasmuch as the same is totally distinguishable on facts.

11. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.08.2024
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO