

(2011) 08 P&H CK 0193

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 4962 of 2011 (O and M)

Lalit Mohan Kochhar

APPELLANT

Vs

Satish Mohan Kochhar

RESPONDENT

Date of Decision: Aug. 18, 2011

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Mehinder Singh Sullar, J.

The crux of the facts, which needs a necessary mention for a limited purpose of deciding the core controversy involved in this revision petition and emanating from the record, is that Lalit Mohan Kochhar-petitioner-plaintiff (for brevity "the plaintiff") filed the suit for a decree of declaration to the effect that he is owner and in possession, with a consequential relief of permanent injunction, restraining his brother Satish Mohan Kochhar-respondent-defendant (for short "the defendant"), from dispossessing him from the house in dispute.

2. Having completed the evidence of the plaintiff, the case was slated for evidence of the defendant. The defendant in order to substantiate his case, filed his affidavit (DW4/A) along with other affidavits of his brothers, besides some other receipts. Counsel for the plaintiff raised certain objections with regard to the admissibility of documents, which were exhibited subject to the objection on the ground of mode of proof.

3. Again, the plaintiff moved an application to de-exhibit the indicated documents produced by the defendant. The trial Court dismissed the application, by virtue of impugned order dated 25.05.2011.

4. Aggrieved by the impugned decision of the trial Court, the petitioner-plaintiff preferred the present revision petition, invoking the provisions of Article 227 of the Constitution of India.

5. After hearing the learned counsel for the petitioner, going through the record with his valuable help and after considering the entire matter deeply, to my mind, there is no merit in the instant petition in this context.

6. What is not disputed here is that the defendant has produced the documents, which were exhibited by the trial Court, subject to the objection of the mode of proof. What would be the evidentiary value or admissibility of the documents, will be a moot point to be decided by the trial Court, at the time of final decision of the case. Be that as it may, but the documents cannot possibly be de-exhibited, at this stage, as urged on behalf of the petitioner-plaintiff.

7. Moreover, the trial Court has rightly negated the claim of the petitioner-plaintiff in this relevant behalf, by means of impugned order, which in substance is, as under:

Heard. I am of the considered opinion that the defendant tendered his affidavit Ex.DW4/A along with documents Ex.D-3 to D-22 which are exhibited subject to objection on the ground of mode of proof. The documents are already objected by the learned counsel for the plaintiff. Moreover, it is a settled law mere exhibition of documents is not proved and the same has to be proved by the cogent evidence. The plaintiff has still an opportunity to cross examine the said witness and extract the truth from the same. As such, no ground is made out and the application stands dismissed. Now to come up on 18.7.2011 for cross of DWs.

8. Meaning thereby, the trial Court has recorded the valid grounds in the impugned order dated 25.05.2011. Such order, containing the valid reasons, cannot legally be set aside, in exercise of limited revisional jurisdiction of this Court, as contemplated under Article 227 of the Constitution of India, unless the same is perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned order deserves to be and is hereby maintained in the obtaining circumstances of the case.

9. In the light of aforesaid reasons, as there is no merit, therefore, the instant revision petition is hereby dismissed as such.