
(2010) 11 P&H CK 0482

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 7222 of 2010 (O and M)

Bhir Singh

APPELLANT

Vs

Rachhpal Singh and Os.

RESPONDENT

Date of Decision: Nov. 15, 2010

Hon'ble Judges: Hemant Gupta, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Hemant Gupta, J

1. Challenge in the present revision petition is to an order passed by the learned trial Court on 05.08.2010, whereby an application filed by the Petitioner under Order 13 Rules 3 & 6 for de-exhibiting the documents Exs.D-1 to D-22 and Exs. DA to DI, was dismissed.

2. The Plaintiff filed a suit for declaration that the Plaintiff and Defendant No. 1, who is his brother, are owners in possession of tubewell connection installed in Khasra No. 17R/28 situated at Village Kotli Moulvi, Tehsil Dera Baba Nanak with consequential relief restraining the other Defendants i.e. Defendant Nos. 2 to 4 from interfering in the possession of the Plaintiff and Defendant No. 2 or from shifting and disconnecting the tubewell connection.

3. In the said suit, Defendant No. 2 has tendered documents as Exs.D-1 to D-22, whereas Defendant Nos. 3 & 4 have tendered documents as Exs.DA to DI in their evidence. An application was filed by the Petitioner for de-exhibiting all these documents except Ex.D-2, which is sale deed dated 18.08.1994. It is the said application, which has been dismissed by the learned trial Court, inter alia, on the ground that such documents stand proved on the basis of the testimony of SDO Prem Singh (DW-3) in his cross-examination.

4. Learned Counsel for the Petitioner has vehemently argued that the finding recorded by the learned trial Court in respect of the statement of SDO Prem Singh is factually incorrect and, therefore, the documents could not have been admitted in evidence. Learned Counsel for the Petitioner also relies upon a judgment of this Court reported as Raj Kumar v. Bawa Jai Gopal Singh 2006 (2) CCC 654, wherein it has been held that the admissibility of the affidavit in evidence should be considered prior in time before admitting a document in evidence.

5. After hearing learned Counsel for the Petitioner, I do not find any merit in the present revision petition. Once the documents have been exhibited in evidence, the same could not be de-exhibited by moving a miscellaneous application like the present moved by the Petitioner. The questions; whether the document is admissible in evidence or what is the evidentiary value of such document, are required to be considered by the learned trial Court while deciding the suit. It is also well known that mere exhibition of a document does not prove that the document stands executed. If the Defendants were satisfied with the tender of the documents, the legal effect whether such documents stand proved in evidence are required to be considered by the learned trial Court at the time of the final decision of the suit. Therefore, the documents tendered by the Defendants could not be de-exhibited in the manner sought by the Petitioner.

6. In view of the above, I do not find any patent illegality or irregularity in the order passed by the learned trial Court, which may warrant any interference by this Court in its revisional jurisdiction.

7. Consequently, the present revision petition is dismissed with liberty to the Petitioner to raise all objections regarding admissibility of such documents at the final hearing of the suit.