

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5407 of 2012 (O&M)
Date of decision: 30.04.2015

Amarjit Kaur and another

... Petitioners

versus

Nirmal Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. H.S. Bhullar, Advocate, for the petitioners.
Mr. N.S. Wahniwal, Advocate for
Mr. Abhinav Jain, Advocate for respondent No.1.

K.Kannan, J.

The plaintiffs, who filed a suit for possession, contending that the sale by brother Gurdev Singh in favour of the defendant in respect of 1 kanal 10 marlas, was in excess of his entitlement and that Gurdev Singh had indulged in several sales of property under six transactions and exhausted the property of his entitlement. The plaintiffs had already filed one such sale dated 01.06.1981, which according to the plaintiffs, would show that Gurdev Singh had no further right after the said sale conveyed to the defendant. The counsel also wants to rely on the mutation that had taken place subsequent to the transactions, as a corroborative value for the genuineness of the sale. The plaintiffs had filed the document but had omitted to exhibit it in evidence by calling any person connected with the document to prove the sale. The plaintiffs side had been closed on 29.11.2011 and even after defendant's evidence was closed. The plaintiff has sought the permission of the Court for additional evidence. The Court did not grant such permission because the plaintiffs case betrayed lack of

bonafides and diligence.

The revision petition is at the instance of the plaintiffs who point out to the relevancy of the document for proof of their contention that their brother did not have any right to execute yet another sale in favour of the defendant after exhausting his property through various sale transactions. According to him, the Court should have granted that liberty. Both the parties want to rely on case law to state their respective position that the evidence could always be opened in the interest of justice and that the Court will not allow for additional evidence after conclusion of the evidence by a party.

I did not find any issue of law involved in this case, except that the plaintiffs who must have exhibited these document by appropriate evidence even before they concluded their evidence failed to do so. They caused needless inconvenience to the Court and prolonged the trial unnecessarily and failed to take appropriate action to secure the attendance of witness, who was competent to speak about the alleged sale by Gurdev Singh in favour of the third party on 29.11.2011 as well as to prove mutation entry. I will impose costs of Rs. 15,000/- against the plaintiffs to be paid to the defendant, within two weeks from the date of receipt of a copy of this order. The trial Court shall open the plaintiffs' side and allow them to produce the document sought to be produced by way of additional evidence. The defendant shall also have the liberty to rebut the evidence, if he so chooses.

The impugned order is set aside and the civil revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

30.04.2015
prem/kv