

Date of Decision:-12.3.2014 Vs. Smt. Harnam Devi and ors.

Date of Decision:-12.3.2014 Vs. Smt. Harnam Devi and ors.

SooperKanoon Citation : sooperkanoon.com/1134473

Court : Punjab and Haryana

Decided On : Mar-12-2014

Appellant : Date of Decision:-12.3.2014

Respondent : Smt. Harnam Devi and ors.

Judgement :

Civil Revision No.1863 of 2014 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH Civil Revision No.1863 of 2014 Date of Decision:- 12.3.2014 Shakti ChandPetitioner Versus Smt. Harnam Devi & Ors.Respondents CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR. Present: Mr.Deepak Verma, Advocate for the petitioner. MEHINDER SINGH SULLAR, J.

(Oral) The compendium of the facts and material, culminating in the commencement, relevant for deciding the instant revision petition and emanating from the record, is that, initially, petitioner-plaintiff No.1 Shakti Chand son of Parduman Singh, proforma respondents-plaintiffs No.2 & 3 Avinash Rana and Hari Om Rana ss/o Janak Bahadur Singh (for brevity the plaintiffs.), have instituted the civil suit for a decree of declaration, against contesting respondents-defendants Harnam Devi w/o Ratti Ram and others (for short the contesting defendants.).

2. During the pendency of the suit, the petitioner-plaintiff moved an application (Annexure P1) for adducing additional evidence. The contesting defendants refuted his prayer, filed the reply (Annexure P2), stoutly denied all the allegations

contained in the application and prayed for its dismissal.

3. The trial Court dismissed the pointed application of plaintiff, by means of impugned order dated 19.2.2014 (Annexure P3). Arvind Kumar Sharma 2014.03.19 12:19 I attest to the accuracy and integrity of this document Chandigarh Civil Revision No.1863 of 2014 2 4. Aggrieved thereby, the petitioner-plaintiff has preferred the present petition, invoking the superintendence jurisdiction of this Court under Article 227 of the Constitution of India.

5. After hearing the learned counsel for the petitioner-plaintiff, going through the record with his valuable assistance and after deep consideration over the entire matter, to my mind, there is no merit in the instant petition in this respect.

6. Ex facie, the argument of learned counsel that since the photographs sought to be produced by way of additional evidence by the plaintiff were essential to establish the date and natural death of Jagdish Singh, so, the trial Court committed the legal mistake to dismiss his application for additional evidence, lacks merit.

7. As is evident from the record that the plaintiffs have filed the civil suit for a decree of declaration against the contesting defendants to the effect that they are co-owners and in joint possession to the extent of shares each in the property in litigation on the basis of Will dated 14.12.1994, executed by Jagdish Singh (deceased), who was stated to have died on 14.6.1995. The defendants contested their claim, filed the written statement, strongly denied the date of death of Jagdish Singh and all other allegations contained in the plaint and prayed for dismissal of the suit. Now, by way of application (Annexure P1), the plaintiffs want to produce the photographs of cremation to prove the date and factum of natural death of Jagdish Singh. It is not a matter of dispute that they (plaintiffs) claimed that Jagdish Singh, their uncle, died on 14.6.1995, which was strongly denied by the contesting defendants. Therefore, to me, the production of photographs of cremation is not at all relevant to prove the actual date and factum of Arvind Kumar Sharma 2014.03.19 12:19 I attest to the accuracy and integrity of this document Chandigarh Civil Revision No.1863 of 2014 3 natural death of said Jagdish Singh. The plaintiffs appear to have moved the application (Annexure P1)

to prolong the agony of the contesting defendants and to delay the disposal of the main case.

8. Moreover, the trial Court has correctly dismissed the indicated application of plaintiff, through the medium of impugned order (Annexure P3), examined the matter in the right perspective and recorded the cogent grounds in this relevant direction. Such order, containing valid reasons, cannot legally be set aside, in exercise of superintendence power of this Court, as envisaged 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. No other point, worth consideration, has either been urged or pressed by the counsel for the petitioner.

10. In the light of aforesaid reasons, as there is no merit, therefore, the instant petition filed by the petitioner-plaintiff is hereby dismissed as such. Sd/- 12.3.2014 (MEHINDER SINGH SULLAR) AS JUDGE Arvind Kumar Sharma 2014.03.19 12:19 I attest to the accuracy and integrity of this document Chandigarh

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com