
(2012) 02 P&H CK 0273
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 775 of 2012

Shanti Bhatia and others

APPELLANT

Vs

Miss. Priyanka and others

RESPONDENT

Date of Decision : 06-02-2012

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2012) 166 PLR 193

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Defendants no. 1, 2, 4 and 5 have filed the instant revision petition under Article 227 of the Constitution of India assailing order dated 08.12.2011 (Annexure P-9) passed by learned Civil Judge (Junior Division), Faridabad, thereby dismissing application (Annexure P-7) moved by defendants no. 1 to 5 (petitioners and proforma respondent no. 2 herein) for amendment of their written statement. Respondent no. 1 (plaintiff no. 2) and her mother Raj Kumari - plaintiff no. 1 (since deceased and represented by respondent no. 1) filed suit against petitioners and proforma respondent no. 2 as defendants no. 1 to 5 and General Public (proforma respondent no. 3) as defendant no. 6. In the said suit, defendants no. 1 to 5 i.e. petitioners and proforma respondent no. 2 filed written statement admitting the claim of the plaintiffs and also made statement to the same effect in the trial court. However, later on, proforma respondents no. 4 and 5 herein were impleaded as defendants no. 7 and 8 to the suit, on application moved by them. They are contesting the suit.

2. Defendants no. 1 to 5 moved application (Annexure P-7) for amendment of written statement, alleging that plaintiffs took them to an Advocate, stating that all of them have to be declared having 1/7th share each in the suit property and accordingly, plaintiffs themselves engaged counsel on behalf of defendants no. 1 to 5 also and obtained their signatures on written statement and also on some

statement made in the trial court on 29.09.2004 itself. Defendants no. 1 to 5 were under the impression that their signatures had been obtained to declare them owners in possession of the suit house to the extent of 1/7th share each, but now, they have learnt that written statement was filed on their behalf admitting the claim of the plaintiffs to be exclusive owners of the suit house. Accordingly, defendants no. 1 to 5, by withdrawing the earlier written statement, sought to file a completely new and different written statement contesting the suit of the plaintiffs. The said application has been dismissed by the trial court vide impugned order Annexure P-9, which is under challenge in this revision petition at the hands of defendants no. 1, 2, 4 and 5.

3. I have heard learned counsel for the petitioners and perused the case file.

4. Counsel for the petitioners contended that newly added defendants no. 7 and 8 are contesting the suit, and therefore, the suit has to be tried and if defendants no. 1 to 5 also contest the suit by filing amended written statement, the plaintiffs would not suffer any loss or injury. The contention is highly deceptive and misconceived. Even if defendants no. 7 and 8 are contesting the suit, and even if they are to succeed, they would succeed to the extent of their share, but if defendants no. 1 to 5 are allowed to contest the suit, they would claim their own share, which would be to the detriment of the plaintiffs. If now defendants no. 1 to 5 are permitted to contest the suit by filing amended written statement, obviously it would effect the share of the plaintiffs in the suit house. This cannot be permitted. Claim of the plaintiffs was admitted by defendants no. 1 to 5 by filing written statement and by making statement in Court on 29.09.2004 and the instant application has been filed on 19.10.2011 i.e. seven years thereafter. Prior to it, defendants no. 1 to 5 also tried their luck by moving application for withdrawing the earlier written statement and the statement made in the Court, but the said application was also dismissed.

5. The whole stand of the defendants no. 1 to 5 in their application is patently false and mala fide being result of greed and dishonesty. Statement recorded in Court carries sanctity. Version put forward by defendants no. 1 to 5 might have been considered debatable regarding their signatures on the written statement, but they had also made statement in the trial court. The said statement is read over to the maker of the statement and is taken on record only after the maker of the statement accepts the same and affixes his signatures or thumb impressions thereon. Consequently, version of defendants no. 1 to 5 that they had made the statement in the Court under the impression that they were being declared owners in possession of the suit house to the extent of 1/7th share each cannot be accepted, when they categorically admitted the plaintiffs to be exclusive owners in possession of the suit house by making the said statement.

6. In view of the aforesaid, application moved by defendants no. 1 to 5 for amendment of written statement has been rightly dismissed by the trial court. Defendants no. 1 to 5, by moving the said application, wanted to make somersault, which is not permissible in the guise of amendment of pleading. The

impugned order of the trial court does not suffer from any perversity, illegality or jurisdictional error so as to call for interference in exercise of revisional jurisdiction. On the other hand, as noticed herein before, application Annexure P-7 moved by defendants no. 1 to 5 is based on falsehood, dishonesty, greed and mala fide intention. The instant revision petition also suffers from same vices. Such frivolous litigation has to be curbed with strong hand. Accordingly, the instant revision petition has to be dismissed with exemplary cost. Accordingly, the instant revision petition being meritless and frivolous is dismissed in limine with cost of Rs. 10,000/- to be deposited by the petitioners with the Registry of this Court within one month from today, failing which the case shall be listed for this purpose.