

2014 PLRonline 0200

Punjab and Haryana High Court

Justice Mehinder Singh Sullar

Dera Baba Budh Ram v. Mahabir Singh

16.01.2014

Civil Revision No.308 of 2014

Constitution of India, Art. 227 - Issues - Additional issue - Suit for a decree of declaration and permanent injunction - At stage of rebuttal evidence and arguments, application filed for framing of issues with regard to validity, genuineness or otherwise of the impugned Wills - Seven exhaustive issues were framed - Parties were well aware of each other's pleadings and led their respective evidence in support thereof - The real controversy between the parties can effectively be decided under already framed exhaustive issues - Trial Court has dismissed the application holding that *issue No.1 is an exhaustive issue which covers the disputed fact of the plaintiffs and there is no need to frame any separate issue, plaintiffs had led their evidence and defendant, has also led his evidence, case is already fixed for rebuttal evidence and arguments, suit can be effectively decided on the basis of evidence led by the parties by deciding issue No.1 & 2 - Trial Court has examined the matter in the right perspective and recorded the cogent grounds in this relevant connection - Such order, containing 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 - [CPC O. 14 R. 1](#).*

Mr. Anurag Jain, for the petitioners.

MEHINDER SINGH SULLAR , J.(Oral) – The conspectus of the facts & material, culminating in the commencement, relevant for disposal of the instant revision petition and emanating from the record is that, initially petitioners-plaintiffs Dera Baba Budh Ram and others(for brevity “the plaintiffs”) have instituted the civil suit(Annexure P-1) for a decree of declaration to the effect that Maharaj Subhash Chander Ji, plaintiff No.2 is presently its Mahant and is owner & in possession of the suit land, with a consequential relief of permanent injunction, restraining respondent-defendant Mahabir Singh son of Manphool Ji Maharaj(for short “the defendant”) from claiming any right, title or interest in the suit property of the Dera Baba Budh Ram. The defendant contested the suit, filed the written statement, stoutly denied the allegations contained in the plaint and prayed for dismissal of the suit.

2. Having framed the issues arising out of the pleadings and completing the respective evidence of the parties, the trial Court slated the case for rebuttal evidence and arguments. Then the plaintiffs moved the application(Annexure P-3) for framing additional issues with regard to the validity, genuineness or otherwise of the impugned Wills. The defendant refuted the claim of the plaintiffs, filed the reply(Annexure P-4) and prayed for dismissal of the application.

3. Taking into consideration the entire material on record, the trial Court dismissed the application for framing of additional issues filed by the plaintiffs, by virtue of impugned order dated 10.12.2013(Annexure P-5).

4. Aggrieved thereby, the petitioners-plaintiffs have preferred the present revision petition, invoking the provisions of Article 227 of the Constitution of India.

5. After hearing the learned counsel for the petitioners, 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 revision petition in this context.

6. As is evident from the record that, the plaintiffs have filed the civil suit for a decree of declaration and permanent injunction, in the manner depicted here-in-above. The plaintiffs remained silent during the course of the trial. As soon as, the case was listed for rebuttal evidence and arguments, in the meantime, they filed the application(Annexure P-3) for framing of issues with regard to validity, genuineness or otherwise of the impugned Wills. The bare perusal of the record would reveal that the trial Court has already framed seven exhaustive issues mentioned therein in the impugned order, arising out of the pleadings of the parties. Moreover, the parties were well aware of each other's pleadings and led their respective evidence in support thereof. The real controversy between the parties can effectively be decided under already framed exhaustive issues. The application for framing of additional issues appears to have been filed by the plaintiffs in order to delay the disposal of the case. The trial Court has dismissed their application by way of impugned order dated 10.12.2013(Annexure P-5), which in substance is as under:-

“A careful perusal of the file goes to show that issue No.1 is an exhaustive issue which covers the disputed fact of the plaintiffs as Guru and Mahant of Dera Baba Budhram. There is no need to frame any separate issue. The plaintiffs had led their evidence and defendant, has also led his evidence. The case is already fixed for rebuttal evidence and arguments. The suit of the plaintiffs can be effectively decided on the basis of evidence led by the parties by deciding issue No.1 & 2, which are totally exhaustive issues. Accordingly, there is no merit in the present application and same stands dismissed.”

7. Meaning thereby, the trial Court has examined the matter in the right perspective and recorded the cogent grounds in this relevant connection. Such order, containing 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. As, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioners, therefore, the impugned

order(Annexure P-5) deserves to be and is hereby maintained in the obtaining circumstances of the case.

8. In the light of aforesaid reasons, as there is no merit, therefore, the instant revision petition is hereby dismissed as such. Needless to mention that, the trial Court would decide the validity, genuineness or otherwise of the impugned Wills, on the basis of evidence on record and in accordance with law.