

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).18460/2012
(From the judgement and order dated 12/03/2012 in CR No.1476/2012 of the
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SULTAN SINGH & ORS.

Petitioner(s)

VERSUS

KARTAR SINGH & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 05/07/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Jasbir Singh Malik, Adv.
Mr. S.K. Sabharwal,A.O.R.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Taken on Board.

Learned counsel for the petitioners submitted that he is not aggrieved by that part of the order by which petitioners/plaintiffs' application filed under Order VI, Rule 17 of the Code of Civil Procedure (for short, 'C.P.C. '), seeking permission to amend the plaint, was rejected by the Trial Court and confirmed by the High Court in Civil Revision No.1476 of 2012 on 12.3.2012, but he is really aggrieved by last part of the order passed by the learned Single Judge, whereby not only cost of Rs.50,000/- has been imposed on the petitioners but a further direction has been given to the Trial Court to consider the aspect of prosecuting the petitioners-plaintiffs and/or the witnesses who have pleaded and deposed with regard to the false plea taken in the suit.

We have critically perused the plaint filed by the petitioners and the Application filed under Order VI, Rule 17 of the C.P.C., by which certain facts were sought to be incorporated in the plaint. No doubt, it is true that earlier petitioners as plaintiffs had pleaded that property was ancestral, but by amendment they sought to plead that the property was purchased by their predecessor-in-title, thus claimed ownership thereof. Thus, in any case, they claimed to be the owners of the disputed property, may not be through succession, but through the sale deed said to have been executed by their predecessor-in-title.

No doubt, it is true and a trite law that practice of taking false plea has to be deprecated but Courts should be cautious in exercising the powers conferred on it in such an extreme manner.

After having gone through the said order, we are of the considered opinion that once the petitioners' prayer for amendment of the plaint was rejected by the Trial Court and revision was dismissed by the High Court vide impugned order, it was in fact not necessary to impose such exemplary cost of Rs.50,000/- on the petitioners and also to direct their prosecution by the Trial Court, if it thought fit to do so. Even if the learned Single Judge was of the view that false plea had been taken by the petitioners, justice would have been met by dismissing the petitioners' Civil Revision, which it did ultimately. Where it could not be established that the plea was absolutely malafide or taken to defeat the defence of other side, such extreme steps could have been avoided.

In the given facts and circumstances, it was not a fit case for

imposing such exemplary costs of Rs.50,000/- and direct prosecution of the petitioners.

Thus, the last part of the impugned order, which deals with the aforesaid two aspects, stand hereby deleted. Special Leave Petition is accordingly disposed of.

This order has been passed without issuance of notice to the respondents as it pertains basically to the petitioners and the aforesaid portion, even if deleted from the impugned order, does not substantially affect them.

|(A.D. Sharma)
|Court Master

| |(S.S.R. Krishna)
| |Court Master

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