

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on : 26.07.2021

Pronounced on : 10. 08.2021

OW 104 No. 02/2015

IA No. 03/2015

Puran Chand

...Petitioner(s)

Through:- Mr. S. C. Subash, Advocate

v/s

Tarsem Lal

.... Respondent(s)

Through:-Mr. R. P. Sharma, Advocate

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

1. Supervisory jurisdiction of this court is being invoked by the petitioner seeking setting aside of the order dated 15.11.2014 (for brevity 'impugned order') passed by the learned Principal District Judge, Samba (for brevity 'appellate court').

2. A suit is claimed to have been filed by the petitioner herein for permanent prohibitory injunction against the respondent herein in respect of land measuring 03 Kanals 16 Marlas covered under Khasra No. 175 min situated at Village Kalah, Tehsil and District , Samba stated to be in possession of the petitioner.

3. Perusal of the record reveals that against the order of dismissal of application for interim relief accompanying the aforesaid suit on 12.07.2014 by the Court of learned Sub Judge, Samba (for brevity 'trial court') the petitioner herein filed a misc. appeal before the appellate court. Perusal of the record further reveals that during the

pendency of the said appeal the applicant/petitioner herein moved an application for placing on record a compromise deed dated 23.07.2011 claiming therein that the parties have executed a compromise deed amongst themselves in respect of the land in question.

4. Perusal of the record reveals that respondent herein in his objections filed in opposition to the said application before the appellate court, however has contended that the applicant/petitioner herein taking undue advantage of his illiteracy got the signatures of the respondent on the documents without stating its contents and thus, alleging fraud, besides stating that the compromise deed is claimed to have been executed on 23.07.2011 and that, as such same ought to have been filed with the plaint on the date of its institution on 20.03.2013. In essence the respondent herein disputed the voluntarily execution of the said compromise deed.

5. Under Order 7 Rule 14 CPC, where a plaintiff sues upon a document or relies upon a document in his possession or power in support of his claim, the plaintiff has to enter such documents in a list, and produce it in court when the plaint is presented by him and also at the same time deliver the document and a copy thereof, to be filed with the plaint.

Although sub-rule 3 of Rule 14 of Order 7, postulate that a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without

the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

6. As has been noticed in the preceding paras upon perusal of the record, the appellate court is seized of a misc. appeal testing the legality or otherwise of the order dated 12.07.2014 passed in the application for interim relief accompanying the suit. Filing of the application before the appellate court while it is considering a misc. appeal, therefore, has rightly not been entertained by the said court. Nothing prevented the petitioner to seek the leave of the court for production of compromise deed before the trial court which is seized of the main suit, notwithstanding the objections raised by the respondent in his objections in opposition to the said application.

7. The supervisory jurisdiction invoked while throwing challenge to the impugned order in the facts and circumstances of the case is not available to the petitioner in view of the law laid down by the Apex Court in cases titled *Shalini Shyam Sheety and another vs. Rajinder Shankar Patgil, reported in 2010 (8) SCC 3291* and *Radhey Shyam and another vs. Chhabi Nath and others, reported in 2015 (5) SCC 423*.

8. In view of the above, the impugned order does not call for any interference. Resultantly, the petition fails and is, accordingly, dismissed.

9. This order shall not stand in the way of the petitioner herein in seeking production of the compromise deed before the trial court if so advised and is permissible under law.

(JAVED IQBAL WANI)
JUDGE

Jammu
10.08.2021
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Whether the order is speaking: Yes
Whether the order is reportable: Yes/No.