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**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CR-6012-2025 (O&M)  
Date of Decision: 02.09.2025**

Prerna Singh

.....Petitioner

Vs.

Nishant Singh

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Ganesh Chand Sharma, Advocate, (through V.C)  
for the petitioner.

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**SUDEEPTI SHARMA J. (ORAL)**

1. The present revision petition is preferred against the impugned order dated 03.07.2025 passed by learned Additional District Judge, Faridabad, in Civil Appeal No.CA-224-2023, whereby, the learned Court has directed that the application filed under Order 41 Rule 27 CPC would be decided along with the main appeal instead of deciding the same first.

2. Learned counsel for the petitioner contends that the petitioner filed civil suit for declaration, partition and consequential relief of permanent and mandatory injunction. The same was dismissed by learned Civil Judge (Junior Division), Faridabad, vide its judgment and decree dated 15.05.2023, on the sole ground that the petitioner could not prove the ownership of her father. She, therefore, to prove the same, filed an application under Order 41 Rule 27 CPC before learned Additional District Judge, Faridabad, after filing of the appeal challenging the judgment and



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decree dated 15.05.2023 passed by learned Civil Judge (Junior Division), Faridabad. Learned Additional District Judge, Faridabad, vide impugned order dated 03.07.2025, adjourned the matter for 10.10.2025 for arguments on application preferred under Order 41 Rule 27 CPC as well as on the main appeal. He, therefore, prays that if both the application as well as the main appeal would be heard together, petitioner would not be able to prove the title of ownership by production of additional evidence and it is only after the decision in application that appeal can be decided. He relies upon the judgment passed by Hon'ble the Supreme Court in **North Eastern Railway Administration Vs. Bhagwan Das (D) and others, AIR 2008 SC 2139.**

3. I have heard learned counsel for the petitioner and perused the case file with his able assistance.

4. This Court finds merits in the arguments of the learned counsel for the petitioner that it would be in the interest of justice if the application filed under Order 41 Rule 27 CPC is decided first so that the issue regarding title of ownership can be decided by the first appellate court after taking into consideration the documents produced by the petitioner and thereafter, the appeal be decided. Civil Suit filed by the petitioner is dismissed on the ground that petitioner failed to prove title of ownership of her father, without framing any issue regarding the same. Therefore, the petitioner could not place on record the documents proving the same and without allowing the petitioner to prove title of ownership of her father, she would not be able to prove her title, which was the declaration asked for in the civil suit. Further,



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for proper adjudication of appeal and in the interest of justice, application filed under Order 41 Rule 27 CPC seeking permission to produce additional evidence, oral as well as documentary, should be decided first.

5. Hon'ble the Supreme Court in **Bhagwan Das's case (supra)**, held as under:-

*“17. It is manifest that in the present case, the High Court did not examine the record of the case with the thoroughness which was expected at the time of disposal of the pending applications. On a perusal of the impugned decisions, it is clear that the High Court was not even aware of the pendency of the application under Order 41 Rule 27 C.P.C. seeking leave to adduce additional evidence. A perusal of the documents, which came to light pursuant to the directions given by the High Court on 3rd April, 2002, prima facie, goes to show that these are likely to widely affect the decision of the Court in one way or the other. If the stand of the appellant, which, according to them, is borne out from the documents now on record, is found to be correct, then obviously these will have material bearing on the core issue, namely, whether the decree dated 13th March, 2001 is a nullity, having been allegedly obtained by concealing material facts and playing fraud on the Court. It is trite that a judgment or decree by the first court or by the highest court obtained by playing fraud on the Court is a nullity and non est in the eyes of law. (See **S.P. Chengalvaraya Naidu Vs. Jagannath, 1994(1) RRR 253, India Household and Healthcare Ltd. Vs. LG Household & Healthcare Ltd., 2007(2) RCR (Civil) 362 : 2007(2) RAJ 351 : 2007(5) SCC 510**). In any event, had the Court found the additional documents, sought to be admitted, necessary to pronounce the judgment in the appeal, in a more satisfactory manner, it would have allowed the application and, if not, the application would have been dismissed. Nonetheless, it was bound to consider the application before taking up the appeal. We say no more at this stage, as the aforementioned applications are yet to be considered by the High Court on merits in the light of the legal position, briefly set out hereinabove. In view of the afore-noted factual scenario, we are of the opinion that the impugned*



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*judgment and the orders are erroneous and cannot be sustained.*

*18. In the result, the appeal is allowed and the judgment and orders dated 17th July, 2002 and 14th June, 2005 are set aside. The matter is remitted back to the High Court, which shall, after hearing the parties, take a fresh decision on the applications preferred by the appellant under Order 41 Rule 27 and Order 6 Rule 17 C.P.C. and thereafter form its opinion afresh on the merits of the second appeal. We may clarify that we have not expressed any final opinion on the merits of the second appeal as well as the applications, which shall be considered and disposed of by the High Court on their own merit in accordance with law.”*

6. In view of the law laid down by Hon'ble the Supreme Court, the present revision petition is **allowed** and impugned order dated 03.07.2025 passed by learned Additional District Judge, Faridabad, in Civil Appeal No.CA-224-2023, is modified to the extent that learned Additional District Judge, Faridabad, shall first hear and decide the application preferred under Order 41 Rule 27 CPC on the adjourned date i.e. 10.10.2025 and thereafter hear the appeal and decide the same on merits.

7. Pending application(s), if any, also stand disposed of.

**(SUDEEPTI SHARMA)**  
**JUDGE**

**02.09.2025**

Virender

Whether speaking/non-speaking : Yes/No

Whether reportable : Yes/No