

In the High Court of Punjab and Haryana at Chandigarh

CR No. 1602 of 2015

Date of decision: 09.03.2015

Bhupinder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Vijay Sharma,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging the order dated 13.11.2014 whereby application moved by the petitioner under Section 10 of the Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

Learned counsel for the petitioner has submitted that earlier respondents No. 3 and 4 had filed a suit against respondent No.1 for permanent injunction. The suit filed by respondents No. 3 and 4 was dismissed. In appeal, respondents No. 3 and 4 sought amendment of the plaint and the appellate Court framed the issue as to whether respondent No.3 had become owner of the land in question by way of conveyance deed executed by respondent No.1

in his favour. The said issue was decided in favour of respondent No.3 and the suit filed by respondent No. 3 and 4 was decreed. However, the appeal against the said judgment and decree is pending in this Court. Now, the State has filed the suit challenging the conveyance deed dated 21.2.2002 and the sale deed dated 4.3.2002 against respondents No. 3 to 5 and the petitioner. Since the matter was the same, the proceedings in the suit filed by the State were liable to be stayed till the decision of the Regular Second Appeal pending in this Court.

In the present case, respondents No. 3 and 4 had filed suit against the State-respondent No.1 for permanent injunction. The said suit was dismissed by the trial Court. However, during the pendency of the appeal, the conveyance deed dated 21.2.2002 was executed in favour of respondent No.3. Therefore, the appellate Court framed the issue as to whether respondent No.3 had become owner of the property in question. The said issue was decided in favour of respondent No.3 and the suit filed by respondents No. 3 and 4 was decreed. However, the State has now filed the suit challenging the conveyance deed dated 21.2.2002 and the sale deed dated 4.3.2002 executed in favour of respondent No.3. The matter in issue in both the suits is, thus, different and cannot be said to be directly and substantially in issue. Earlier the suit was merely for permanent injunction, whereas, the suit was later filed by the State for declaration challenging the conveyance deed and sale deed in question. In these circumstances, learned trial Court had rightly dismissed the application moved by the petitioner under Order 10

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CPC. No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

March 09,2015
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