

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2997 of 2015 (O&M)
Date of decision: 4.5.2015

Baljinder Kaur

.. Petitioner

v.

Krishan Kumar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Hardip Singh, Advocate for the petitioner.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 6.4.2015, passed by the learned court below, whereby the application filed by the petitioner for setting aside ex-parte order, was dismissed.

In the case in hand, suit for specific performance of agreement to sell filed by respondent No. 1 was decreed on 28.11.1988. The balance sale consideration was deposited. The objections were dismissed on 4.12.2013. Local Commissioner appointed by the court was directed to get the sale deed executed. The needful was done on the date fixed, i.e. 16.12.2013. Thereafter, the petitioner filed objections in January, 2014, being one of the co-sharers in the joint khewat, out of which for part a decree was passed in favour of respondent No. 1. On account of non-appearance of the petitioner and/or her counsel on 20.5.2014, though as per order she was proceeded against ex-parte, but technically the objections were dismissed in default. The application for re-calling the order was filed on 23.1.2015, which has been dismissed vide impugned order.

Learned counsel for the petitioner submitted that the petitioner is one of the co-owners in the joint khewat and in case the decree holder-

vendee is put in possession of the property, she will be prejudiced. He further submitted that there are many other co-owners in the joint khewat. It was further submitted that the petitioner is an illiterate lady, who was dependent on her counsel who did not appear on the date fixed, though she was present. When a new counsel was engaged, she came to know about the proceedings and filed the application before the court below.

After hearing learned counsel for the petitioner, I do not find any merit in the present petition. The objections filed by the petitioner were dismissed in default on 20.5.2014 (though the court below recorded as the petitioner being proceeded as ex-parte). The application for re-calling the order was filed on 23.1.2015, i.e., more than 8 months thereafter. The same was not supported by any affidavit. Though a plea was sought to be raised that the petitioner was present in court on 20.5.2014, however, nothing was produced to substantiate the claim. Though on merits, it was sought to be claimed that grant of possession of specific portion will prejudice the co-sharers, however, the fact remains that admittedly there are many co-sharers in the land, ownership of part of which has been transferred in favour of respondent No. 1 in execution of the decree for specific performance. No other co-sharer has any objection.

For the reasons mentioned above, I do not find any merit in the present petition. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

4.5.2015
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