

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 4079 of 2015 (O&M)
Date of decision: 2.7.2015

Jagdish

.. Petitioner

v.

Jaibir Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vivek Khatri, Advocate for the petitioner.

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Rajesh Bindal J.

Challenge in the present petition is to the order dated 29.5.2015, passed by the learned court below, whereby in a suit for specific performance of agreement to sell filed by the respondent-plaintiff against the petitioner-defendant, application filed by son of the petitioner for impleadment of the petitioner-defendant through his son-Kuldeep claiming that the defendant was of unsound mind for the last 4 years, was rejected.

Learned counsel for the petitioner, while referring to the certificate issued by the Department of Neurology, PGIMS, Rohtak dated 17.3.2015, submitted that petitioner-Jagdish was admitted in the hospital on the complaint of forgetfulness. In fact, he is of unsound mind for the last 4 years and is not able to watch his interest, hence, his son should be permitted to represent him in the suit. He submitted that summary rejection of the application was not appropriate as the court was bound to conduct an enquiry. In support of the plea, reliance was placed upon a judgment of this court in Dilbagh Singh v. Sawinder Kaur, 2011(2) PLR 324.

After hearing learned counsel for the petitioner, I do not find any merit in the submissions made. The suit in the present case was filed on

2.7.2014. The application was filed by the son of the petitioner in December, 2014 seeking permission to represent the petitioner claiming that he is of unsound mind for the last 4 years. For the purpose, reliance before this court is sought to be placed on a certificate dated 17.3.2015 issued by the Department of Neurology, PGIMS, Rohtak, which merely stated that the defendant was admitted in the hospital on 11.3.2015 on the complaint of forgetfulness and his case was under evaluation. The certificate was granted only for the purpose of court attendance. More than three months have passed thereby. The result of evaluation and as to whether the defendant is still admitted in the hospital was not pointed out. In fact, the certificate runs contrary to the stand taken in the application filed by the son of the defendant claiming that the defendant was of unsound mind for the last 4 years, whereas nothing as such has been mentioned in the certificate annexed. Further, a perusal of the impugned order shows that the defendant got a sale deed registered on 5.1.2015 for land measuring 8 kanals. The same was not through any attorney or representative. This also belies the stand sought to be taken that the defendant is of unsound mind.

As regards the claim of the petitioner that the court was bound to conduct an enquiry because an application has been filed is merely to be noticed and rejected. Some *prima-facie* material is required on the basis of which the court is required to conduct an enquiry to record a finding that the person is of unsound mind and he cannot watch his own interest and is required to be represented by next friend or court appointed guardian.

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

(Rajesh Bindal)
Judge

2.7.2015
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