

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CR No.6021 of 2015.

Date of Decision: 15.09.2015.

Sukhminder Singh alias Sukhwinder Singh and anotherPetitioners.

VERSUS

Karam Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. I.S. Brar, Advocate for the petitioner.

SNEH PRASHAR, J.

By way of this revision petition, order dated 12.05.2015 passed by learned Additional District Judge, Bathinda affirming the order dated 21.08.2012 passed by Civil Judge (Junior Division), Talwandi Sabo by virtue of which application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (for short, “the Code”) for ad-interim injunction of respondent No.1 was allowed, has been assailed.

The relevant facts are that Karam Singh-respondent No.1 filed a suit for declaration and permanent injunction against petitioners-defendants Sukhwinder Singh and another. In the said suit, he filed an

application under Order 39 Rules 1 and 2 read with Section 151 of the Code seeking to restrain the defendants (present petitioners) from alienating the suit property during the pendency of the suit. The petitioners contested the application but it was allowed by learned trial Court vide order dated 21.08.2012. Petitioners preferred an appeal against the said order which was dismissed by learned Additional District Judge, Bathinda on 12.05.2015.

Feeling aggrieved, the petitioners have filed the instant revision petition for setting aside the order passed by the trial Court as well as by the appellate Court.

The submissions made by Mr. I.S. Brar, learned counsel representing the petitioners have been considered.

At the very outset, learned counsel for the petitioners argued that the mutation of inheritance of Baljit Singh was rightly sanctioned in favour of his natural legal heirs and Karam Singh-respondent, having no relation with deceased Baljit Singh, was rightly sanctioned in favour of his natural legal heirs and Karam Singh-respondent having no relation with deceased Baljit Singh had no right to inherit the property left by him. There was also no reason or occasion for Baljit Singh to execute a will in respect of his property in favour of Karam Singh-respondent. The will being relied upon by Karam Singh-respondent, allegedly executed by deceased Baljit Singh was not a legal or valid document and therefore, Karam Singh-respondent neither had a locus-standi nor a prima-facie case for grant of any kind of injunctive order in his favour.

The facts as noticed by learned Additional District Judge in

para No.2 of his judgment dated 12.05.2015 are as under:-

“The plaintiff has filed suit with the averments that Baljit Singh son of Harnek Singh was owner and in possession of suit property. Harnek Singh was natural father of Baljiit Singh but Baljit Singh was adopted by his aunt Dalip Kaur and her husband Kartar Singh. After adoption name of Baljit Singh was changed to Sahib Singh. He is real father of plaintiff Karam Singh. Applicant has further alleged that Baljit Singh maintained the plaintiff and plaintiff and Baljit Singh were known as father/son in the society. During the life time plaintiff used to take care of Baljit Singh and on 24.05.1999 Baljit Singh executed a Will out of his free will in presence of witnesses in favour of plaintiff. Said will was executed at Talwandi Sabo and is duly registered. Sahib Singh @Baljit Singh had expired on 09.03.2012 leaving behind plaintiff as his legal heir as mother of plaintiff had already expired. Plaintiff has further alleged that after the death of Baljit Singh plaintiff has become owner of suit land by virtue of registered Will No.57/3 dated 24.05.1999. He has further alleged that above said Will was never cancelled by Baljit Singh and there is no legal heir of Baljit Singh except the plaintiff. He has further stated that defendants No.1 and 2 are having no concern with property of Baljit Singh and when plaintiff obtained copy of Jamabandi to get entry of inheritance of his father on the basis of Will then plaintiff came to know that defendants No.1 and 2 has been shown as owner in the Jamabandi on the basis of mutation No.1321 on the basis of natural succession. He has further stated that on 12.03.2012 defendants No.1 got entered an entry regarding death of Sahib Singh with M.C.Patiala and he also got death certificate issued and defendants No.1 and 2 in connivance with revenue

authorities got mutation No.1321 entered in their favour. Plaintiff has further stated that defendants No.1 and 2 have no right over the suit property because plaintiff is natural heir of deceased Baljit Singh and mutation No.1321 is illegal null and void. Plaintiff has filed the suit through power of attorney Satinderpal Singh in whose favour he has executed general power of attorney dated 17.04.2012. He has further stated that defendants No.1 and 2 are out to alienate the suit property.”

It is apparent from the above facts that the plaintiff is claiming his right over the suit property being owner and only legal heir of deceased Baljit Singh. According to him, Baljit Singh had executed will No.57/3 dated 24.05.1999 bequeathing the suit property in his favour. Petitioners-defendants, on the other hand, are claiming to have inherited the suit property by natural succession. A mutation of inheritance has been sanctioned in their favour. However, mutation confers no title. The claim of Karam Singh-respondent that he is adopted son of Baljit Singh @ Sahib Singh and a registered will bequeathing the suit property in his favour was executed by deceased Baljit Singh are the contentious issues to be decided at the time of decision of the case on merits on the basis of the evidence led by both the parties. As reflected in the order by learned Additional District Judge, it is important to note that petitioner Sukhminder Singh (defendant No.1 in the suit) himself was an attesting witness to the will executed by deceased Baljit Singh and being relied upon by Karam Singh-respondent.

With the said facts in the backdrop, its needless to say that Karam Singh-respondent (plaintiff) has a prima facie case, the balance of convenience tilts in his favour and it is he, who will suffer an irreparable

loss in case the petitioners-defendants succeed in alienating the suit property. Learned trial Court as well as learned Additional District Judge have rightly restrained the petitioners from alienating the suit property in any manner during pendency of the suit.

There being no illegality or perversity in the order dated 21.08.2012 and judgment dated 12.05.2015 calling for intervention, the instant petition is dismissed.

(SNEH PRASHAR)
JUDGE

15.09.2015.
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