

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6665 of 2015
Date of decision : October 8, 2015

Karamjit Singh @ Sukhwinder Singh

..... Petitioner

Versus

Parminder Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Pankaj Bali, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The challenge in the present petition is to the order dated 17.8.2015 whereby the application filed by the respondent-defendant under Order 7 Rule 11 CPC has been allowed and the petitioner-plaintiff has been directed to deposit the ad valorem court fee according to the relief sought.

Mr. Pankaj Bali, learned counsel appearing on behalf of the petitioner submits that admittedly the petitioner-plaintiff is not a party to the sale deed, challenge in the suit, therefore the judgment relied upon by the trial court would not apply. In support of his submissions he has relied upon the judgment in **Ravinder Kumar Vs. Narinder Kumar and others 2007 (2) RCR (Civil) 1 and**

Jasmair Vs. Ram Bhagat and others 2009 (5) RCR (Civil) 830 to

contend that he is not bound by the acts of third party, therefore, impugned order suffers from illegality, much less perversity.

I have heard learned counsel for the petitioner and appraised the paper book.

Before referring to the contentions of the learned counsel for the petitioner, it would be apt to reproduce the claim sought in the suit:-

SUIT FOR DECLARATION. to the effect that the plaintiff & defendants no. 1 to 3 are the joint owners in joint possession to the extent of equal 1/4th share each out of the following property recorded in the name of deceased S. Beant Singh s/o Bakhshish Singh, r/o VPO: Bhumaddi, Tehsil Khanna, District Ludhiana: Land meas.73 Kanal 18 Marla, comprised of Khewat no. 597, Khatauni no. 781,-Khasra no. 594,596,212 27//17/1,21/2, 22,23 24 31//1/2,2,3,4 5/1,9/2,10/1, as entered ,vide: jamabandi of yrs. 1961-62, situated at. Village Bhumaddi, Tehsil Samrala (now Khanna), District Ludhiana, being the Joint-Hindu Family Undivided- -Coparcenary ancestral property having been inherited by the plaintiff & defendants no.1 to 3 from their forefathers

SUIT FOR DECLARATION to the effect that the following alleged sale deeds/ Tabdeel Malqiatnama:

a) alleged sale deed Dated 23.4 2003,

registered. Vide. Vasika No.274 same day with Sub Registrar, Khanna, for the alleged sale of the land Meas. 12 Kanal 6 Marla out of land meas.64 Kanal 2 Marla, comprised of Khewat no. 822/1, 823,825,1210, Khatauni No. 919/1 920, 922, 1358, Khasra no. 212,31//227//17/1,23,24,31//34,5/1,9/2,27//1/2,10/1,25, as entered vide jamabandi of years: 1996-97, situated at Village Bhumaddi, Tehsil. Khanna,District Ludhiana, allegedly executed by Late Beant Singh & the defendant no,3, in favor of the defendant no.4

b) alleged Tabdeel Malqiatnama dated 04.01.2006, registered vide Vasika no.4671 same day with Sub Registrar, Khanna, for the alleged -transfer of the land meas 20 Kanal 14 Marla, comprised of Khata No.863, 864/941, Khasra no 31/72, Khata no 865/915, Khasra no. 212 Khata No. 867/944, Khasra no. 27//17/1,23,24,31//3,4/ 5/1, ,9/2, Khata. no.-869/946, Khasra no. 27//1/2,10/1, Khata no. 1281/1407, Khasra no.27/25 min entered vide jamabandi of yrs. 2001-2002, situated at Village Bhumaddi, Tehsil Khanna, District Ludhiana, allegedly executed by the defendant no.3, in favour of the Late Beant Singh

c) alleged sale deed Dated 15.11.2006, registered vide Vasika No.3918 same day with Sub -Registrar,Khanna, for the alleged sale of the land meas. 8 Kanal 0 Marla out of land meas.19 Kanal 4 Marla, comprised of Khewat

no. 863,864, Khatauni no. 941, Khasra no. 31//2, Khewat no. 869, Khatauni no. 946, Killa no 31//1/2,10/1, as entered vide jamabandi of yrs. 2001-2002, situated at Village Bhumaddi, Tehsil Khanna, District Ludhiana allegedly executed by Late Beant Singh in favor of the defendant no.5

d) alleged sale deed dated 15.6.2006, registered vide Vasika no.1565 same day with Sub Registrar, Khanna, for the alleged sale of the land meas. 4 kanal 0 Marla, comprised of Khata no. 863,864/941, Khasra no. 31//2, Khata No.867/944, Killa no.27//17/1,23,24, 31//3,4,5/1,9/2, Khata no.1281/1407, Killa no. 27//25, as entered vide jamabandi of years 2001-2002, situated at village Bhumaddi, HB No.234 Tehsil Khanna, District Ludhiana, allegedly executed by Late Beant Singh in favor of the defendant no.6

e) alleged sale deed dated 19.10.2007, registered vide Vasika no.3130 same day with Sub Registrar, Khanna, for the alleged sale of the land meas. 7 Kanal 12-1/2 Marla, comprised of Khata no. 863, 864/941, Khasra no. 31//2 Khata no. 867/944, Khasra no 27//23, 31//3, 4 , 5/1,9/2, Khata no. 869/946, Khasra no.31/1//2/2,Khata no.892/967, Khasra no. 27//26, entered vide jamabandi of yrs. 2006-2007, situated Village Bhumaddi, HB No.234; Tehsil Khanna,District Ludhiana, allegedly executed Late Beant Singh & defendant no.3 in favor of the defendant no.6

f) alleged sale, deed dated 03.01.2007, registered vide Vasika no.4873 same day with Sub Registrar, Khanna, for the alleged sale of the land meas. 8 Kanal 0 Marla, comprised of Khata no. 867/944,. Khasra no. 27//17/1,23,24,31//3,4,5/1,9/2, as entered vide jamabandi of yrs. 2006-2007, situated at Village Bhumaddi, HB no.234, Tehsil Khanna, District Ludhiana, allegedly executed by Late Beant Singh in favor of the defendant no.6

g) alleged sale deed dated 28.08.2012, registered vide Vasika no. 2935 same day with Sub Registrar, Khanna, for alleged sale of the land meas. 48 Kanal 18 Marla, comprised of Khata no. 917/989, Khasra no. 31//2, Khata no. 920/992, Khasra no. 27//23, 31//3, 9/2, Khata no.921/993, Khasra 31//4,5/1, Khata no.922/995 Khasra no 31//10/1/1/2, Khata no 922/995, Khasra no. 31//1/2/2, entered, vide jamabandi of yrs. 2006-2007, situated at Village Bhumaddi, HB No.234, Tehsil Khanna, District Ludhiana, allegedly executed by the defendants no.5 to 7 in favor of the defendant no.8 &.subsequent mutations, if any, are liable to be set aside being without any right, authority or legal necessity of the defendants no.1 to 3 to sell the said un partitioned joint Hindu Family Coparcenary property, being nonest,illegal, capricious, farce, null void, ineffective, inoperative; not binding on the plaintiff & his legal rights in said suit -land, as the defendants no.1 to 3 & subsequent vendees/

defendants no.4 to 7 could not. sell, bequeath &/or transfer the ownership of the suit land in favor of the subsequent vendees, in view of its nature & character and further as the rights of plaintiff in suit land are protected & the said sale. deeds/ Tabdeel Malqiatnama do not badly or adversely affect the legal rights of the plaintiff- in. suit land or any part thereof & hence the said sale deeds the mutations obtained. on the basis of the alleged - sale deeds/. Tabdeel Malqiatnamas are shrouded by the suspicious circumstances do not confer any right, title or interest in favor of the vendee/defendants in the suit land on the basis of the alleged sale deeds/Tabdeel Malqiatnama to the exclusion of plaintiff

SUIT FOR. POSSESSION : directing the defendants to deliver possession of 1/ 4th share of the plaintiff in the suit property. to him

SUIT FOR PERMANENT. INJUNCTION

restraining the defendants from in any way, illegally, forcibly & in unauthorized. manner, themselves or through their. Agents, servants,attorneys & relations etc. alienating suit land or any part thereof by sale, gift, lease, let, exchange and transfer etc. on the basis of alleged sale deeds, Tabdeel Malqiatnama & alleged mutations to the detriment of plaintiff- its rightful co-owner and further restraining them from delivering its possession to someone else other than the plaintiff on the basis of oral & documentary

evidence “

On perusal of the claim, it is evident that the petitioner plaintiff is not a party to the sale deed but the fact remains that he has sought possession calling upon the defendants to deliver his 1/4th share. Since the relief of possession has been sought, the petitioner-plaintiff was required to pay ad valorem court fee as per the provisions of 7 (iv) (c) of The Court Fee Act, 1870.

The judgments aforementioned cited by the learned counsel for the petitioner would not apply to the facts and circumstances of the present case as both the judgments are in respect of challenging a claim viz-a-viz declaration regarding the sale deed executed by a third party. The instant case is of different kind, as the petitioner herein has sought possession.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

October 8 , 2015
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