

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

Civil Revision No.7010 of 2015
Date of Decision: October 19, 2015

Joginder Kaur

...Petitioner

Versus

Diwan Chand

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Pandit Vinod Sharma, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the impugned order dated 24.7.2015, whereby the application filed on behalf of the respondent-plaintiff under Order 39 Rule 1 & 2 CPC has been decided against the petitioner-defendant and the respondent-plaintiff has been permitted to raise construction on the property in dispute subject to his peril.

Learned counsel appearing on behalf of the petitioner-defendant submits that by way of following documents, Diwan Chand respondent-plaintiff had parted with the ownership and possession of the House bearing No.4994-EWS, Maloya Colony, U.T.Chandigarh:-

- 1) General Power of Attorney dated 20.1.1993;
- 2) Agreement to sell;
- 3) Will; and
- 4) Affidavit dated 20.1.1993.

In essence, it was a sale under Section 207 of the Contract Act. The petitioner-defendant had rented out the property to a tenant, but the respondent-plaintiff along with his son Jimmy have managed to take the forcible possession of the said house and now has filed the suit. In essence,

Jimmy also instituted a suit on the same cause of action.

Learned counsel for the petitioner-defendant further submits that the petitioner-defendant has also filed a suit for declaration and claimed possession. The suit is at the stage of plaintiff's evidence.

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

Be that as it may, from the shorn of the facts, noticed above, I am of the view that the construction, if any, has been permitted to be raised at the risk and costs of the respondent-plaintiff. In case, the petitioner-defendant succeeded in his suit claiming the possession and declaration that she is owner by virtue of the aforementioned documents, she would be rather benefited. Once both the Courts below have granted liberty to the respondent-plaintiff to raise construction at his risk and costs, it is for the respondent-plaintiff to ascertain the pros and cons, much less, the pith and substance of the order whether to continue with the construction or wait for the outcome of the decision in pending suit instituted by the petitioner.

I do not intend to differ with the findings rendered by both the Courts below. However, it is made clear that the trial Court shall make an endeavour to decide the suit as expeditiously as possible, preferably within a period of one year from the date of receipt of certified copy of this order.

In case, it is found that Diwan Chand respondent-plaintiff is instrumental in getting the adjudication of the suit delay, the trial Court shall take a serious note of that.

Accordingly, the impugned order is upheld and the revision petition is disposed of in the aforementioned terms.

October 19, 2015
ramesh

(AMIT RAWAL)
JUDGE