

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

CR No.7448 of 2015.

Date of Decision: 08.12.2015.

Piara Singh

....Petitioner.

VERSUS

Daya Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Amit Arora, Advocate for the petitioner.

SNEH PRASHAR, J.

This is a petition under Article 227 of Constitution of India for setting aside the order dated 16.09.2015 passed by learned Additional Civil Judge (Senior Division), Khadoor Sahib, District Tarn Taran, vide which the application under Section 151 of the Code of Civil Procedure (for short, “the Code”) filed by petitioner-plaintiff Piara Singh with request to adjourn the case sine die, was dismissed.

The relevant facts, as they emerge from the record, are that petitioner Piara Singh filed a suit for possession by way of specific

performance of the agreement to sell dated 29.01.2009 allegedly executed by respondents No.1 to 3 in his favour in respect of a residential house (description of which was given in the head note of the plaint), situated in village and Tehsil Khadoor Sahib, District Tarn Tara. In the alternative, recovery of Rs.20 lacs i.e. Rs.10 lacs already paid as earnest money and Rs.10 lacs as agreed stipulated damages alongwith interest upto date was sought. It was mentioned in the pleadings of the petitioner that he had come to know that in violation of the terms and conditions of the agreement dated 29.01.2009, defendants-respondents No.1 to 3 have already sold the suit property to defendant-respondent No.4 vide registered sale deed dated 14.10.2009.

During pendency of the suit, the petitioner filed an application invoking the provisions of Section 151 of the Code with the request to adjourn the case sine die as he had filed another civil suit titled 'Piara Singh vs. Kuldeep Singh and others' assailing the judgment and decree dated 26.11.2014 passed in a suit for specific performance filed by respondents No.5 and 6 on the grounds that it was based on fraud and was null and void. The application was opposed by the respondents. Considering the submissions made by both the parties, learned trial Court dismissed the application vide the impugned order dated 16.09.2015. Feeling aggrieved by the said order, the petitioner has filed the instant civil revision.

The submissions of Mr. Amit Arora, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner submitted that respondents

No.5 and 6 in collusion with respondents No.1 to 3 had prepared a false and fabricated document i.e. an agreement to sell dated 20.10.2008 and had managed to obtain the judgment and decree dated 26.11.2014 passed in their favour for specific performance of the said agreement to sell with the sole motive to defeat the right of the petitioner. A separate suit challenging the judgment and decree dated 26.11.2014 has been filed by the petitioner. Decision in that case will have a direct bearing on the fate of the present case and therefore the present case should have been adjourned sine die by the trial Court.

There appears no merit in the argument of learned counsel for the petitioner. In his pleadings in the present suit, the petitioner had mentioned about the agreement to sell dated 20.12.2008 which he alleged had been got prepared by respondents No.5 and 6 in collusion with respondents No.1 to 3 and 4. He also mentioned about execution of a registered sale deed dated 14.10.2009 in respect of the suit property executed by respondents No.1 to 3 in favour of respondent No.4. The instant suit as it appears from the copy of the order of learned trial Court, was filed on 07.01.2010. The petitioner has not mentioned when the suit for specific performance was filed by respondents No.5 and 6 in which the judgment and decree dated 26.11.2014 had been passed and there is nothing to indicate that pendency of that suit was not in knowledge of the petitioner. Even if the petitioner has challenged the judgment and decree dated 26.11.2014 by filing a civil suit, there is no ground for sine die adjournment of the present case which is prior in time from that suit and had been filed

by the petitioner himself claiming an independent cause of action. As such, the suit is to be decided on the basis of the rival pleadings and evidence adduced by both the parties.

Thus, there being no illegality or perversity in the order of learned trial Court calling for intervention, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

08.12.2015.
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