

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 7570 of 2013 (O&M)

Date of Decision: 06.04.2015

Rajinder Sain Behl and others

.....Petitioners

Vs.

Vijay Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.L. Sarin, Senior Advocate, with
Mr. Nitin Sarin, Advocate,
for the petitioners.

Mr. N.K. Bansal, Advocate,
for respondents No. 1 to 3.

Mr. Ajay Bhardwaj, Advocate,
for respondents No. 4 and 5.

SABINA, J.

Petitioners had filed this petition challenging the order dated 13.08.2013, whereby application moved by the petitioners for staying the proceedings of the case, till the decision of RSA No. 1745 of 2003, was dismissed.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

The suit property in the present case is plot No. 400, Sector 4, Panchkula. Initially, petitioners had filed suit for declaration to the effect that they were owners in possession of the property in question, and they also sought consequential relief for permanent injunction restraining the

defendants from dispossessing them from house No. 400, Sector 4, Panchkula. Suit filed by the petitioners was dismissed. However, directions were given to Haryana Urban Development Authority to allot another plot to the petitioners.

Aggrieved against the judgment/decreed, petitioners as well as Haryana Urban Development Authority, preferred appeals. The Appellate Court vide judgment/decreed dated 11.01.2003, dismissed the appeal filed by the petitioners and the direction given to Haryana Urban Development Authority to allot an alternative plot to the petitioners was set aside. Thereafter, petitioners have approached this Court by way of Regular Second Appeal No. 1745 of 2003. The said appeal was admitted on 12.01.2007 and the following order was passed by this Court:-

“Admitted on substantial questions (ii) to (vi), recited in the grounds of appeal.

Dispossession of the appellants shall remain stayed till further orders.”

Questions Nos. (ii) and (vi) read as under:-

“(ii) Whether the Lower Appellate Court committed an error in law by dismissing the suit when it had given a cogent finding that the plaintiffs were bonafide purchasers in good faith who took reasonable care to ascertain title of transfer?

(vi) Whether the judgments are decrees of the courts below are perverse?

Thereafter, respondents No. 1 to 3 had filed the present suit for possession of the premises in question. Learned trial Court fell in error while holding that the parties in both the suit were different. Rather parties in both the suit are the same. Petitioners as well as respondents No. 1 to 3 are claiming ownership qua the property in question. Since this Court has admitted the appeal of the petitioners qua the property in question, the proceedings in the suit filed by respondents No. 1 to 3 seeking decree for possession of the suit property in question were liable to be stayed till the decision of the Regular Second Appeal by this Court. Accordingly, this petition is allowed. Impugned order dated 13.08.2013 is set aside. Application for staying the proceedings of the case till the decision of RSA No. 1745 of 2003 is allowed.

(SABINA)
JUDGE

April 06, 2015
nitin