

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8263 of 2014 [O&M]
Date of Decision : March 19th, 2015

Bharat Singh Gulia

.... Petitioner

Versus

Anzar Khan and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Harish Nain, Advocate,
 for the petitioner.

Dr. BHARAT BHUSHAN PARSOON, J.

Agreement to sell dated 24.01.2011 [Annexure P/3] filed with CM No. 567-CII of 2015 is taken on record. Application stands disposed of.

Main Petition

Alongwith a suit filed by respondent No.1-plaintiff, for seeking a decree of declaration to the effect that he is owner in possession of the suit property, an application under Order XXXIX Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908 was also appended for seeking *ad interim* injunction against defendants.

2. Hearing defendant No.1, petitioner herein, who had set-up an agreement to sell dated 24.1.2011 [Annexure P/3] in addition to Will and Power of Attorney of the same date from defendant No. 3 [respondent No. 3 herein] claiming ownership and possession over the suit property, the trial Court had rejected the said application finding no merit in the claim of defendant No.1, petitioner herein, vide order dated 20.11.2013. Even the first Appellate Court found no merit in the claim of the defendant No.1

[petitioner herein] vide order dated 11.11.2014.

3. By way of the present revision petition, it is claimed that possession as also ownership of the suit property rests with the petitioner – defendant. In the matter of injunction, to prove his *prima facie* case, reference has been made to the recital of agreement to sell dated 24.1.2011 [Annexure P/3] urging that both the Courts below have overlooked this document. Seeking setting aside of the impugned orders whereby the stay application has been dismissed, acceptance of the present petition has been sought.

4. It is not disputed by the petitioner – defendant No.1 that Smt. Vidya Devi Tiwari, respondent – defendant No. 3 was original owner of the suit property. She had sold the same to Karnail Singh, defendant – respondent No.2 on 2.2.2012, who in turn, had transferred right, title and interest in the suit property to the respondent – plaintiff vide registered sale deed dated 16.3.2012.

5. To the contrary, claim of the petitioner – defendant No.1 is based on the agreement to sell dated 24.1.2011. It is an unregistered document. Recital of delivery of possession therein has been referred to. For claiming right, title and interest in the suit property, this document was required to be registered. Claim of the petitioner – defendant is that suit for specific performance of this unregistered agreement to sell is already pending against Smt. Vidya Devi Tiwari, but there is nothing on record to support this claim of the petitioner – defendant.

6. Agreement to sell [Annexure P/3] does not confer any title. Rather, title has already been passed on by the vendor to Karnail Singh, who in turn has already passed the title in favour of the respondent-plaintiff. Recital in agreement to sell dated 24.1.2011 regarding delivery of possession is very weak piece of evidence, particularly, when there is no other document viz. Roznamcha Patwari, supporting the same. In the interface of sale deed effected by vendor, Smt. Vidya Devi Tiwari in favour of Karnail Singh, defendant No.2 on 2.2.2012, there is no merit in the claim of the petitioner that he is owner in possession of the suit property.

7. The impugned orders are not only well written but also take into account all the attending facts and circumstances.

8. No merit. Dismissed.

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

March 19th, 2015
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1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes