

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 1198 of 2016(O&M)
Date of decision : April 25th , 2016

Dr. Rajinder Pal Maingi

..... Petitioners

Versus

Jatinder Pal Maingi

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Satbir Rathore, Advocate
for the petitioner.

Mr. Onkar Singh, Advocate
for respondent No.1.

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.

The petitioner-defendant No.1 is aggrieved of the orders dated 26.3.2013 (Annexure P-5) passed by the Additional Civil Judge (Sr. Divn.) Hoshiarpur and 15.9.2015 (Annexure P-7) passed by the District Judge, Hoshiarpur whereby ad interim application filed under Order 39 Rules 1 and 2 of the plaintiff-respondent No.1 has been disposed of with a direction that the parties shall maintain status quo with regard to nature of disputed property including its construction and alienation.

Learned counsel appearing on behalf of the petitioner submits that out of 20 marla of property mentioned in Head

Note C of the plaint 10 marla as per sale deed dated 24.10.1988 (Annexure P-3), is owned and possessed by the petitioner-defendant No.1, thus, it is self acquired property and therefore in any case, the plaintiff cannot have any right qua 1/4th share as sought in the suit. There could not have been any status quo order in respect of the said property. This aspect has not been appreciated/noticed by the trial court and as well as the lower appellate court dismissed the appeal.

Mr. Onkar Singh, learned counsel appearing on behalf of the respondent submits that all the properties mentioned above in the plaint including the property at S.No.'C' measuring 20 Marlas of land was owned by Tara Rani. Tara Rani during her life time had executed a power of attorney in favour of petitioner-defendant No.1 on the basis of same he sold the land measuring 10 Marlas to his wife. Though, Tara Rani acquired the property of another 10 Marla land vide sale deed dated 24.10.1988 Annexure P-4, therefore, the petitioner-defendant No.1 cannot have any grievance qua status quo order as it is most innocuous order. On the other hand, the plaintiff has been able to make out a prima facie case, much less irreparable loss. Keeping in view the aforementioned facts, the trial court allowed the application and the lower appellate court upheld the same, thus, prays for dismissal of the revision petition.

I have heard learned counsel appearing on behalf of the parties, appraised the paper book and of the view that as per sale deed Annexure P-3 and P-4 land measuring 10 Marlas each out of 2 Kanals 4 Marlas Khatoni No. 45 and Khewat No.8, Khatoni No.8

situated in H.B. No. 227 of Village Bassi Khawaju, Tehsil and Distt. Hoshiarpur was purchased by the petitioner and Tara Rani, thus, for all intents and purposes the property measuring 10 Marlas specified in sale deed Annexure P-3 is self acquired property of petitioner-defendant No.1, thus respondent-plaintiff cannot have any right or claim on 1/4th share. For the sake of brevity the property described in S.No.'C' reads thus:-

“C) Plot No.20 Marlas out of 2 K 4 M contained in Khewat No.43, Khatoni No. 45 and Khewat No.8, Khatoni No.8, situated in H.B.No.227 of Village Bassi Khawaju, Tehsil and Distt.Hoshiarpur as per entry in farad Jamabandi for the year 2005-06 and as shown in red in the colour in the attached site plain bounded as East: Road, West:Park, North:Road, Suoth, House of Mohinder Singh etc.

No doubt that there has been assertion in the plaint that the other land measuring 10 Marlas which Tara Devi had acquired vide Annexure P-4 the same had allegedly been sold on 26.2.2013 on the basis of power of attorney by the petitioner to his wife but the fact remains that another 10 Marla land as per sale deed Annexure P-3 was purchased in the year 1988 by the petitioner-defendant No.1, therefore respondent-plaintiff cannot stake any claim in self acquired property.

The trial court while disposing of the ad interim application passed the following directions which reads thus:-

“On the basis of above discussion, the application in hand stands disposed with direction to both the parties to maintain status quo with respect to nature of disputed property including its construction and alienation. Nothing observed herein shall effect the merits of the main case.”

Keeping in view the aforementioned observations, direction contained in respect of the properties mentioned in S.No. A to B, D to G are affirmed. However, there shall be no status quo order in respect of plot measuring 10 Marlas specified in sale deed Annexure P-3 being part of Sr. No.C.

With the aforementioned observations, the orders under challenge are modified. Rest of the order is affirmed.

The revision petition stands disposed of.

**(AMIT RAWAL)
JUDGE**

**April 25th , 2016
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