

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.4016 of 2016 (O&M)
Date of decision:01.12.2016

Prem Chand

... Petitioner

Vs.

Madhu Sudan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Virendra Rana, Advocate
for respondent No.1.

Mr. Jagjeet Beniwal, Advocate
for respondents No.2, 3, 5 and 6.

Mr. Gurpreet Jayia, Advocate, for
Mr. Jagdish Manchanda, Advocate
for respondent No.8.

AMIT RAWAL J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order 20.05.2016, whereby, the applications for providing police help and appointment of Local Commissioner to ascertain the extent of construction, have been dismissed.

Mr. Sumit Sangwan, learned counsel for the petitioner-plaintiff submits that the aforementioned applications were filed but the trial Court has erroneously dismissed the same. However, the Lower Appellate Court, vide order dated 27.07.2015, passed the following order:-

“In view of above discussion, the impugned order is set aside

and the parties are directed to maintain status quo qua alienation and construction over the property in dispute till the final decision of the case and accordingly, the appeal is allowed. The parties through their counsel are directed to appear before the trial Court on 04.08.2015 for further proceedings. Trial Court Record with a copy of this judgment be sent back. Appeal file be consigned to the record room, after due compliance.”

He further submits that though status quo order qua alienation and construction of the suit property was passed, yet the respondents had alienated the property by creating third party rights and continued with the construction.

Per contra, Mr. Virendra Rana, learned counsel for respondent No.1 submits that the alienation had already been done, vide sale deed dated 09.05.2012 to Ram Parkash and Ajay, who have further sold it to Mukesh, Rinku and Pardeep, vide sale deed dated 12.03.2013 and therefore, it would only apply to the subsequent transferees. It is only subsequent transferees, perhaps who are/were raising the construction, therefore, the status quo order would not be applicable.

Mr. Jagjeet Beniwal, learned counsel for respondents No.2, 3, 5 and 6 submits that the order under challenge is perfectly legal and justified and prays for dismissal of the present revision petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that once there is status quo order qua alienation

and construction of the suit property, there is no need to seek police help. The petitioner is at liberty to move an application for pre-ponement of the matter and seeking adjudication of the same, in accordance with law but not in the manner and mode as indicated above. If at all, any construction/alienation is made during the pendency of the suit, that would be hit by provisions of Section 52 of the Transfer of Property Act, at the risk and costs of the present persons and they will not be entitled to claim any compensation at the time of disposal of the suit, much less damages.

With the aforementioned observations, the impugned order is upheld. Accordingly, the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

December 01, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No