

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4770 of 2016

Date of Decision.28.07.2016

Dr. Lal Chand

.....Petitioner

Vs.

Smt. Bimla Rani and others

.....Respondents

Present: Mr. Vikram Anand, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The petitioner-defendant is aggrieved of the impugned order whereby the legal representatives of late Raksha Rani have been ordered to be impleaded.

Mr. Vikram Anand, learned counsel for the petitioner-defendant submits that the plaintiffs had instituted the suit with the following prayer:-

“Suit for Declaration to the effect that the plaintiffs are co-sharers in possession of the property No.W.F 73, Vaishno Abadi, Opposite District Jail, Jalandhar (earlier known as Mohalla Masooma Chamara Mandi Abadi, Jalandhar), as shown Red & Yellow in the site plan Annexure A1 attached and fully bounded as under:-

East : Gali

West : Shop of others

North : Bunt son of Bhagwan Dass,

South : Street,

situated in property No.W.F 73, Vaishno Abadi,

Opposite District Jail, Jalandhar (earlier known as Mohalla Masooma Chamara Mandi Abadi, Jalandhar)

with Consequential Relief of suit for Partition by Metes and bounds of the suit property as shown Red & Yellow in the site Plan Annexure-A1 attached with the plaint & fully described above.

AND

Suit for Declaration to the effect that the sale deed dated 19.04.1994 alledgedly executed and registered before Sub Registrar, Sirsa (Haryana) in favour of Des Raj Aggarwal son of Tulsi Ram is null & void, illegal, invalid, without jurisdiction, without consideration, & is a result of fraud being sham transaction and the same was got executed with intend to create jurisdiction at Sirsa malafidely with the active connivance of defendants & their agents, servants, Attorneys & the same is not binding upon the plaintiffs & other co-sharers.

AND

Suit for Declaration to the effect that Des Raj Aggarwal son of Tulsi Ram was not the actual owner in possession of any property situated in village Shamshabad, Tehsil & Distt. Sirsa (Haryana) and any sale deed in his favour is a result of fraud, misrepresentation, manipulation & misuse of process of law and was made with intend concrete jurisdiction at Sirsa malafidely with the active connivance of defendants & their agents, servants, attorneys & the same will not effect the plaintiffs rights to claim the shares in the suit property as shown Red & Yellow in the site plan Annexure-A1 attached with the plaint & fully described above.

AND

Suit for declaration to the effect that the Collusive Judgment and Decree dated 09.06.1994 on the basis of Family settlement, in Suit No.1176-C of 1994 titled 'Dr. Lal Chand v/s Des Raj Aggarwal', passed by the Court of Shri N.D. Achint, Additional Senior Sub Judge, Sirsa (Haryana) was

obtained by defendant No.1 in his favour, is a result of fraud, misrepresentation, misuse of process of law, without jurisdiction, illegal, void, invalid, nullity in the eye of law, and is a result of malafide intentions with the active connivance of defendants, their agents & the said collusive judgment & decree is not binding upon the rights of the plaintiffs, as the same never came to light till 07.02.2008 when the defendant No.1 disclosed about the same at the time of filing the written statement in suit No.450/07 titled as 'Pawan Kumar v/s Dr. Lal Chand' pendign in the Court of Smt. Paramjit Kaur, C.J. (J.D.), Jalandhar,

AND

Suit for declaration to the effect that the alleged Will dated 15.11.1967 allegedly executed in favour of Des Raj Aggarwal is invalid, false, forged, fabricated, illegal, nullity in the eye of law, void document and is a result of fraud, misrepresentation, and the same was never executed by Smt. Chanan Devi in her sound disposing mind & never came to light till 07.02.2008 and the same was not acted upon the same will not effect the rights of the plaintiffs over the suit property as shown Red & Yellow in the site plan Annexure-A1 attached with the plaint & fully described above.

AND

Suit for declaration to the effect that any family settlement in between Sh. Des Raj Aggarwal & the defendant No.1 in the absence of the plaintiffs & other co-sharers qua the suit property situated at Jalandhar, is a result of fraud, misrepresentation, without jurisdiction, illegal, void, misuse of process of law, invalid, nullity in the eye of law, and is creation/manipulation of the defendant No.1 with the active connivance of his agents, attorneys, representatives & the same is not binding upon the rights of the plaintiffs to claim ownership of their sharers in the suit property as shown Red & Yellow in the site plan Annexure-A1 attached with the plaint & fully described above situated at Jalandhar in any manner

whatsoever.

AND

Suit for permanent injunction restraining the defendants their agents, servants, attorneys, legal heirs, successors from alienating, mortgaging, transferring the suit property the suit property as shown Red & Yellow in the site plan Annexure-A1 attached with the plaint & fully described about more than their share to any person in any manner whatsoever.

AND

Suit for Permanent Injunction restraining the defendants their agents, servants, attorneys, legal heirs, successors from interfering in the peaceful possession of the plaintiffs in the suit property as shown Red & Yellow in site plan Annexure A1 attached with the plaint & fully described above.”

While formulating the pedigree table, the plaintiff did not mention the fact that Raksha Rani is the sister of the plaintiff and the defendant and somehow her legal representatives could not be impleaded on record. The trial Court on 13.07.2016 observed that in the pedigree table, one of the LRs of Chanan Devi namely Raksha Rani has been shown as dead. However, neither plaintiff nor defendant in their respective pleadings as well as in arguments have disclosed about the death of Raksha Rani or about her LRs. He further submits that ordering impleadment of legal representatives of the late Raksha Rani after rebuttal evidence would tantamount to improve the case of the plaintiff when the plaintiff himself did not make any effort for the same and therefore, it is too late for the plaintiff for putting the clock back and thus, urges this Court for setting aside the impugned order.

I have heard learned counsel for the petitioner, appraised the

paper book and of the view that as per the relief sought in the plaint, it is revealed that dispute in the plaint is with regard to sale deeds allegedly executed in favour of Desh Raj Aggarwal by fraud and misrepresentation. In view of the said fact, it is obvious that legal representatives of Raksha Ran (sister of the parties i.e. plaintiff and defendant) would also be affected. In my view, wisdom had dawned upon the Court to order impleadment of the legal representatives.

I do not find any illegality and perversity in the order passed by the Courts below, much less, the order cannot be said to be passed without jurisdiction. In fact, it is an attempt to render justice and prevent miscarriage of justice. No ground for interference is made. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

July 28, 2016
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No