

Civil Revision No.4858 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.4858 of 2016

Date of Decision:12.8.2016

Amarjit Singh

---Petitioner

vs.

Hari Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Arvind Kashyap, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition has been directed against orders dated 21.10.2015 (Annexure P-1) passed by the Additional District Judge, Patiala and dated 8.12.2014 (Annexure P-2) passed by the Additional Civil Judge (Senior Division), Rajpura whereby application filed by the respondent/plaintiff Hari Singh under Order 39 Rules 1 and 2 of the Code of Civil Procedure (in short "CPC") was allowed by the trial court and the

order passed by the trial court was affirmed in appeal preferred by the unsuccessful petitioner.

Hari Singh filed a suit for permanent injunction restraining the defendants from interfering into his peaceful possession of residential house, detailed in head note of the plaint. It is averred that the plaintiff purchased two portions of the suit property shown by letters 'ABIL' and 'JKLI' in the site plan attached from the custodian department vide conveyance deed/sale certificates dated 28.6.1982 and 30.5.1986/10.9.1986. The third portion shown with letters 'BCDEFGHI' was purchased by Manjit Singh son of the plaintiff from the custodian department vide conveyance deed dated 28.6.1982. Manjit Singh entered into an agreement to sell with his father on 29.5.2001, received the entire amount of sale consideration and delivered possession of the property to the plaintiff. It is claimed that the plaintiff is owner in possession of the suit property, used as his residential house and the defendants have no right to interfere in his peaceful possession.

Amarjit Singh, petitioner (defendant No. 2) raised the plea that Ranjit Singh, his grand father came to village Shamdoo in the year 1962 and

settled there. His father (defendant No. 1) was just 14 years of age at that time and since then defendant and his family is residing in the suit property. He purchased the property shown as 'ABCDEF' from Veer Kaur widow of Manjit Singh vide agreement to sell and defendants are in possession of site 'PQRS' shown in the site plan of the defendants.

Counsel for the petitioner has submitted that plea raised by the respondents/plaintiff that he agreed to purchase the suit property shown with letter 'BCDEFGHI' from Manjit Singh, his son by way of an agreement to sell dated 29.5.2001 does not appear to be true and convincing. It is further submitted that as per averments raised in the plaint, the respondents/plaintiff paid entire sale consideration and obtained possession of property from Manjit Singh but the agreement to sell is not admissible in evidence for want of registration. Another submission made by counsel is that had it been true that Manjit Singh executed any such agreement, there was no reason for the plaintiff having not got executed a sale deed in his favour during life time of Manjit Singh.

I have heard counsel for the petitioner, perused the paper book particularly the orders impugned.

The two courts below have recorded consistent finding that the respondent/plaintiff has been able to satisfy the essential ingredients required for grant of interim injunction. It has also been brought on record that Hari Singh has instituted a suit seeking specific performance of agreement to sell dated 29.5.2001 and the same is pending decision in the court. The plaintiff has staked his claim to a part of the suit property on the basis of agreement to sell executed by Manjit Singh whereas the petitioner/defendant has also claimed an agreement to sell in his favour executed by widow of Manjit Singh in the year 2013. As has been rightly observed by the courts below that the defendants have not been able to make the position clear as to how they happened to be in possession of the suit property since 1962 when otherwise they have claimed an agreement to sell in their favour executed in the year 2013.

When the facts and circumstances of the present case are examined in the light of limited scope of intervention by this Court in an order passed by the court below while disposing of matter with regard to grant of interim injunction, I find myself unable to accept the submissions made by counsel for the petitioner that either the orders passed by the courts

suffer from any infirmity much less perversity.

For the foregoing reasons, finding no merit, the petition fails and is accordingly dismissed in limine. Nothing stated in this order shall cause prejudice to either of the parties at the time of final disposal of the suit on merits.

(Rekha Mittal)
Judge

12.8.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No