

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-557-2013

Date of Decision : February 18th, 2016

Subhash

.... Petitioner

Versus

Manju Devi and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

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?

Present Mr. Abhimanyu Singh, Advocate,
for the petitioner.

Mr. Sandeep Sharma, Advocate
for the respondents.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for quashing order dated 15.12.2012 (Annexure P-3) passed by Additional District Judge, Bhiwani whereby appeal having been filed against order dated 08.11.2012 passed by Civil Judge (Junior Division), Bhiwani in application under Order 39 Rule 1 & 2 read with Section 151 CPC, was allowed.

2. Relevant facts for the decision of present petition; that the plaintiff claiming himself to be the owner of the suit property prayed that the defendants be restrained from interfering in the possession of the plaintiff on the basis of sale deeds dated 05.10.2011 as the same are result of

fraud, misrepresentation and concealment of facts.

3. Defendants contested the application taking the plea that the sale deeds are genuine documents and on the basis of said sale deeds, they have become co-sharers in the suit property and prayed that the injunction application be dismissed.

4. The Court of first instance accepted the application and restrained defendants No.1 and 2 from interfering into the possession of the plaintiff and the remaining co-sharers. The first Appellate Court accepted the appeal and dismissed the injunction application and as such present petition before this Court.

5. Learned counsel for the petitioner mainly submitted that while taking into consideration the entire facts, the petitioner is owner of the suit property. Respondents are asserting their rights on the basis of sale deeds which are for 2 Marlas of land only and the sale deeds have been allegedly executed by daughter of Pehlad. That way, respondents, at the best, can step into the shoes of co-sharers. Learned counsel for the petitioner also submitted that partition proceedings are pending before the revenue authorities and in the given circumstances the best course would be to direct both the parties to maintain status quo regarding possession of the suit property and the order passed by Additional District Judge, whereby application for ad-interim injunction was dismissed, be set aside.

6. Learned counsel for the respondents also fairly conceded that partition proceedings are pending and they are ascertaining their claims on the basis of sale deeds which are relating to 2 Marlas of land only.

7. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that there is no dispute that

the suit property is jointly owned by the co-sharers and partition proceedings are pending. Though, contrary plea has been taken regarding family settlement having been taken place during the life time of Pehlad, yet there is no dispute regarding the fact that no final partition has taken place as yet and the partition proceedings are pending. Respondents have purchased the suit land from daughters of Pehlad. Though, the plea has been taken that sale deeds are result of fraud, misrepresentation and concealment of facts, yet till the same are proved to be such, there is a presumption in favour of the registered documents that at the best the defendants became co-owners of the suit property and in the given circumstances, the best course would be to direct both the parties to maintain status quo regarding respective possession of the suit property as joint ownership during the pendency of the suit or till the partition proceedings are finally decided, whichever is earlier. Learned Additional District Judge has not taken the correct view while deciding the appeal against order having been based on an application under Order 39 Rule 1 & 2 CPC.

8. In view of the above, the revision petition is accepted and the order dated 08.11.2012 is set aside.

(SHEKHER DHAWAN)
JUDGE

February 18th, 2016
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