

Civil Revision No. 7561 of 2016(O&M)

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 7561 of 2016(O&M)
Date of Decision:19.12.2016

Darshan Singh

---Petitioner

vs.

Chamkaur Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.R.S.Randhawa, Advocate
for the petitioner

Rekha Mittal, J.

CM No. 25726-CII of 2016

Heard.

Allowed as prayed for.

Annexure P-6 is taken on record subject to just exceptions.

Main case

The present petition directs challenge against order dated 25.5.2016 (Annexure P-1) passed by the Civil Judge (Junior Division), Ludhiana whereby application filed by the petitioner for appointing her as legal guardian of Darshan Singh to file a suit on his behalf to challenge sale deed bearing Wasika No. 1449 dated 13.11.2009 in respect of land measuring 16 kanals 5 marlas purported to be executed by Darshan Singh in favour of the defendant(s) has been dismissed.

Counsel for the petitioner has submitted that Ms. Pawandeep Kaur is the daughter of Baljit Singh son of Darshan Singh. She being married grand daughter of Darshan Singh has got no interest adverse to that of Sh. Darshan Singh. It is further submitted that the trial court without providing an opportunity to the petitioner to substantiate her plea that Darshan Singh is a person of unsound mind and does not possess testamentary and contractual capacity has dismissed the application seeking permission to file the suit on behalf of Darshan Singh merely by relying upon certain observations made by this Court in order dated 19.4.2012 whereby a petition filed under Section 482 of the Code of Criminal

Procedure for quashing of FIR No. 6 dated 19.1.2011 registered in Police Station, Dakha Police District Ludhiana (Rural), District Ludhiana for offence punishable under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code was ordered to be dismissed. It is further submitted that as before the trial court, a medical report of Dr. Rajiv Mahajan, Professor and Head, Department of Psychiatry DMC and Hospital, Ludhiana was produced, the court was required to examine the said doctor and permit the petitioner to adduce further evidence or may be examination of Darshan Singh for deciding entitlement of the petitioner to file a suit on behalf of Darshan Singh.

I have heard counsel for the petitioner, perused the paper book particularly the order impugned and order dated 19.4.2012 passed by this court in CRM No. M-11355 of 2011 for quashing FIR No. 6 dated 19.1.2011.

It is undisputed position of the case that Baljit Singh brother of Darshan Singh and father of Pawandeep Kaur (petitioner herein) lodged FIR No. 6 dated 19.1.2011 alleging fraud and forgery against Chamkaur Singh and others in respect of sale deed No. 1449 dated 13.11.2009 sought

to be challenged by filing a suit on behalf of Darshan Singh through Pawandeep Kaur daughter of Baljit Singh. In the petition seeking quashing of the FIR filed by Darshan Singh, it was averred by the petitioner that he is residing with his brother Chamkaur Singh and his family and Baljit Singh respondent No. 2 (complainant) has got the FIR registered out of sheer personal vendetta/grudge which he has against Chamkaur Singh and his sons.

The State filed reply that cancellation report has been prepared in the case and the same will be filed within one month. CRM 15935 of 2012 in the quashing proceedings was filed at the instance of respondent No.2/complainant Baljit Singh praying that Darshan Singh be asked to be present in Court as according to him, Darshan Singh is not in a good state of mind and health and is unable to understand his good or bad and is under influence of Chamkaur Singh. Darshan Singh is owner of agricultural land measuring 16 kanals 15 marlas and is not mentally stable and that the aforesaid persons in connivance with each other have got executed sale deed dated 13.11.2009 regarding this very land whereas Darshan Singh is not in a condition to execute sale deed and think of his good or bad.

Darshan Singh came present in the Court in compliance of the order passed in pursuance of the application filed by Baljit Singh. As has been noticed by the Court below, this Court made the following observations on April 19, 2012:-

“.....Darshan Singh is present in Court and was put to many queries. From his appearance, he seems weak due to his old age. At the asking of the court, he has quickly signed his name on the vakalatnama before this Court. It shows that he is quiet alert and understand the question put to him. The court is prima facie satisfied that Darshan singh is mentally alert.

However, in view of the reply filed by the State, the petition was dismissed as not pressed at that stage.

On a pointed query raised by the Court with regard to fate of the aforesaid FIR, counsel has submitted that cancellation report submitted by the police has been accepted, however, it has been submitted that a private complaint has been filed by Baljit Singh against Chamkaur Singh and others. It appears that Baljit Singh father of Pawandeep Kaur was not

successful in getting criminal action taken against Chamkaur Singh and others on the basis of FIR No. 6 dated 19.1.2011, registered by the police after obtaining report dated 8.5.2010 from a doctor of DMC and Hospital, Ludhiana. The present suit is another effort to get the sale deed executed by Darshan Singh in favour of Chamkaur Singh and others set aside by brining forward Pawandeep Kaur daughter of Baljit Singh. As Darshan Singh was examined before this court and found to be mentally alert, no error much less illegality can be noticed in the order impugned rejecting claim of the petitioner to pursue the suit on behalf of Darshan Singh.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

19.12.2016
paramjit

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