

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.**

**CR No.1189 of 2017 (O&M).**

**Date of Decision: 06.04.2017.**

Devinder Singh Bhullar

....Petitioner.

**VERSUS**

Darshan Singh (deceased) through L.Rs. Shere Punjab Singh and others

....Respondents.

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**CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.**

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**Present:** Mr. Prateek Pandit, Advocate for the petitioner.

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**SNEH PRASHAR, J.**

This petition under Article 226/227 of the Constitution of India has been filed for setting aside the order dated 07.11.2016 passed by learned Additional Civil Judge (Senior Division), Kapurthala by virtue of which an application filed by respondent-defendant No.(iii) Amarjit Kaur seeking permission to sell her share in the suit property was allowed.

The submissions made Mr. Prateek Pandit, learned counsel representing the petitioner have been heard.

From the instant petition, it transpires that a suit for possession by way of specific performance of agreement to sell dated 12.11.2007 executed by Darshan Singh in his favour in respect of land measuring 49 Kanals 12 Marlas was filed by the petitioner-plaintiff. It was also pleaded by the petitioner that the due date for execution and registration of the sale

deed was fixed as 11.09.2008, but on 01.05.2008 Darshan Singh (vendor)

expired. His sons assured to honour the agreement and execute the sale deed on 11.09.2008 but they did not turn up in the Office of Sub Registrar on the date fixed. Alongwith the suit, the petitioner filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure (for short, 'the Code') seeking to restrain the respondents-defendants from alienating or transferring the suit property in any manner. The stand taken by the respondents-defendants in their written statement was that agreement of sale was a forged and fabricated document and had not been executed by their father.

Learned trial court vide order dated 19.05.2016 dismissed the application for ad-interim injunction filed by the petitioner and ordered that the respondents would take permission of the Court prior to creating third party interest in the suit property by way of alienation/transfer in any manner. Amarjit Kaur (respondent No.(iii) daughter of Darshan Singh) moved an application seeking permission to sell her share in the suit property which was allowed by learned trial court vide impugned order dated 07.11.2016.

Learned counsel for the petitioner argued that in case the legal representatives of deceased Darshan Singh-vendor/executant of the agreement to sell in question are allowed to alienate their respective share in the suit property creating third party interest, the petitioner, who has paid Rs.60,00,000/- as earnest money out of total consideration of Rs.74,40,000/- will suffer irreparable loss as if ultimately he succeeds, he will face great hardship in getting the decree executed and it will also lead to multiplicity of litigation. To support his argument that in normal course the respondents-

the suit property unless they are able to make out a case of irreparable loss or damage in the event of grant of injunction, learned counsel relies upon *Maharwal Khewaji Trust (Regd.), Faridkot vs. Baldev Dass, 2004(4) R.C.R. (Civil) 760.*

The argument of learned counsel for the petitioner is completely devoid of merit. As observed above, vide order dated 19.05.2016, the application filed by the petitioner under Order XXXIX Rules 1 and 2 read with Section 151 of the Code for an ad-interim injunctive order restraining the respondents from alienating the suit property was dismissed by learned trial court, but simultaneously a direction was given that to avoid multiplicity of litigation, the respondent shall take prior permission of the Court before creating third party interest in the suit property by way of alienation/transfer in any manner. Admittedly, no appeal/ revision was preferred against the said order by the petitioner and as such, the said order had become final between the parties. It is in compliance of the direction in the order dated 19.05.2016 that respondent Amarjit Kaur-L.R. No.(iii) of deceased Darshan Singh had filed the application seeking permission to sell her share in the suit property which was allowed by learned trial court.

Importantly, in the impugned order, it stands mentioned by learned trial court that an application regarding fraud and forgery was given by the legal representatives of deceased Darshan Singh to the police who after investigation has registered a case bearing F.I.R. No.65 dated 06.08.2016 at Police Station Begowal under Sections 420, 406, 465, 467, 471, 120-B of the Indian Penal Code against petitioner Devinder Singh

Bhullar. During investigation, it was found that the stamp paper, on which

the agreement was alleged to be executed on 12.11.2007, had been issued by the Treasury on 15.07.2008 whereas vendor Darshan Singh had died on 01.05.2008.

Be that as it may, learned trial court has given permission to Amarjit Kaur-L.R. No.(iii) of Darshan Singh to sell her share in the suit property as per order dated 19.05.2016 and has directed her to mention in bold letters regarding pendency of the present suit in the conveyance deed/ sale deed or any other deed by which third party interest is created. In said circumstances, needless to say that not only the sale will be hit by the principle of lispendence, the purchaser will also accept to remain bound by the decision of the case.

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is dismissed.

**(SNEH PRASHAR)**  
**JUDGE**

**06.04.2017.**

*jitender sharma*

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**