

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

C.R. No. 2539 of 2016

Date of decision:- 03.07.2017

Saroj Kumari

...Petitioner

Versus

Kharaiti Lal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Deepak Girotra, Advocate
for the petitioner.

RITU BAHRI J. (Oral)

This petition under Article 227 of the Constitution of India read with Section 115 of CPC is for setting aside order dated 05.02.2015 (Annexure P-6) passed by the learned Addl. Civil Judge (Jr. Divn.) Rohtak, whereby the application under Order 39 Rule 2-A CPC has been dismissed and order dated 15.01.2016 (Annexure P-8) whereby the appeal filed against the aforesaid order, was dismissed.

Plaintiff/petitioner (herein after to be referred as 'petitioner') filed a suit for declaration with consequential relief against respondent No. 1 and 2 claiming to be owner in possession of 1/8th share in the ancestral land total measuring 138 kanals 12 marlas situated at village Lahli, Tehsil and District as described in para No. 1

of the civil suit. Both the parties were directed to maintain status quo in respect of alienation of the property, vide order dated 09.09.2002 (Annexure P-2). However, the defendants/respondent Nos. 1 and 2 transferred the share of their sister namely Smt. Kamlesh Kumari, Smt. Bimla Devi and Smt. Santosh Kumari by way of relinquishment deed dated 06.07.2012 in their favour (Annexure P-3). After coming to know about the relinquishment deed, petitioner gave notice to respondents and they did not give any reply to the notice. Thereafter, petitioner filed an application under Order 39 Rule 2-A of CPC (Annexure P-4). The application was dismissed, vide order dated 05.02.2015 (Annexure P-6) passed by the learned Addl. Civil Judge (Jr. Divn.) Rohtak and this order was further affirmed vide order dated 15.01.2016 (Annexure P-8).

The only argument raised by learned counsel for the petitioner is that once the parties were directed to maintain status quo in respect of alienation of the property, vide order dated 09.09.2002 (Annexure P-2), respondent Nos. 3 to 5 could not transfer their share in the name of their brothers respondent Nos. 1 to 2, vide relinquishment deed dated 06.07.2012.

This argument of learned counsel of the petitioner is liable to be dismissed as both the Courts below have rightly held that since

respondent Nos. 3 to 5 were not party to the main suit, they were not bound by the injunction order restraining from alienation of the suit property. Further relinquishment deed was executed by respondent Nos. 3 to 5 in favour of respondent Nos. 1 and 2 cannot make them liable for any penal proceedings under Order 39 Rule 2-A CPC. The stay order was only binding upon party to the suit. Further there was no status quo order with regard to the share of respondent Nos. 3 to 5.

In view of the above discussion, the revision petition is dismissed being devoid of merits

July 03, 2017

G Arora

(**RITU BAHRI**)

JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No