

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-4339-2015 (O&M)  
Date of Decision:- 27.09.2017

Dhir Singh

.....Petitioner

Versus

Intime Promoter Pvt. Ltd. and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

Mr. Sanjay Vij, Advocate  
for respondent Nos.1 to 4.

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**RITU BAHRI, J. (Oral)**

Present petition has been filed under Article 227 of the Constitution for setting aside the impugned order dated 09.12.2013 (Annexure P-1), passed by learned Civil Judge (Junior Division), Sonipat whereby the application under Order 39 Rules 1 & 2 CPC has been allowed partly and for setting aside the judgment dated 30.01.2015 (Annexure P-3), passed by the learned Additional District Judge, Sonapat whereby the appeal filed against the order dated 09.12.2013, has also been dismissed.

Brief facts of the case are that plaintiff had entered into an agreement with defendant No.1 on 15.12.2004, which was registered on

the same date vide deed No.8834 to sell the entire land measuring 53 kanal 12 marla through defendant No.2 for a total sale consideration of ₹2,11,05,000/-, out of which only ₹21,00,000/- remained to be paid. Since the balance sale consideration was not paid after 31.03.2005, the plaintiff came to know that a fake sale deed No.3360 dated 13.06.2005 regarding the purchase of the land of the plaintiff has already been got executed and registered in favour of defendant No.1 by defendant No.2 in the capacity of attorney of plaintiff. The sale deed executed by defendant No.2, who has been shown as one of the attorney for plaintiff, vide general power of attorney shown to be executed on 18.5.2004 at Sonapat and registered on 18.5.2005 in the office of Sub-Registrar, Bagpat. Thereafter, the plaintiff visited the concerned office and received the certified copies of the attorneys and found that fictitious and forged attorney is shown to be executed by the plaintiff in favour of defendant Nos.2 and 3 and attorney is shown to be executed on 18.05.2004 in the office of Sub-Registrar. Along with the suit, an application under Order 39 Rules 1 and 2 read with Section 151 CPC was also filed for restraining the defendants from making construction and alienation of the suit land.

On notice, the defendants had filed their written statement along with reply to the application under Order 39 Rule 1 & 2 CPC and took the stand that the plaintiff had received full consideration way back in the year 2005 and possession of the suit land has been handed over to defendant No.1. Defendant No.1 has performed his part of contract and the land has been developed and is part of TDI City. The said projected was started after getting the requisite approval from the State

Government, including the change of the land use, from agricultural to non-agricultural. The development work is going on since 2005 and the plaintiff was aware about that the land in question is part of the new township. The trial Court has disposed of the application by observing that the defendant can carry out construction work with his own risk and he will not alienate the suit property till the finalization of the suit.

Learned lower appellate Court has affirmed the said order.

During the pendency of this revision petition, the defendants have placed on record documents (Annexures A-1 to A-5).

Learned counsel for respondent Nos.1 to 4 has referred to account statement (Annexure A-4) to show that the payments had been made to the petitioner through cheques on 17.12.2004 and 21.06.2004 and even as per the plaint out of the total of ₹2,11,05,000/-, only ₹21,00,000/- remained to be paid.

After hearing the learned counsel for respondent Nos.1 to 4, going through the record, this Court is of the considered view that the sale consideration had been paid to the petitioner even as per the agreement in question and only ₹22,00,000/- remained to be paid to him. Moreover, since the possession had been admitted by the petitioner and 90% payment has been received by him, the defendants were carried on the development work of the colony after taking the necessary permission from the department of Government.

Therefore, taking into consideration the above-said facts, the impugned orders (Annexures P-1 and P-3), passed by the Courts below, restraining the defendants from making any sale during the pendency of

the suit do not require any interference. Such orders, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited revisional jurisdiction of this Court, unless and until, the same are illegal, perverse and without jurisdiction.

Since there is no merit, therefore, the instant revision petition is hereby dismissed.

September 27, 2017  
naresh.k

( RITU BAHRI )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |