

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 5231 of 2013 (O&M)

Date of decision:- 17.08.2017

Sukhdev Singh

...Petitioner

Versus

Gurdev Singh

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rishav Jain, Advocate
for the petitioner.

Mr. Parminder Singh, Advocate
for the respondent.

RITU BAHRI J. (Oral)

This petition under Article 227 of the Constitution of India is for setting aside order dated 18.07.2013 (Annexure P-4) passed by the learned Addl. Civil Judge (Sr. Divn.) Safidon vide which the application for withdrawal of the suit with liberty to file a fresh suit has been allowed.

An application dated 18.07.2013 (Annexure P-3) was filed by the respondent/plaintiff for withdrawal of the suit with permission to file a fresh suit on same cause of action and to return the original document to plaintiff from the above case file.

This application of the respondent was allowed, vide impugned order dated 18.07.2013 (Annexure P-4).

Learned counsel for the petitioner contends that the learned trial Court has not issued any notice to the petitioner who is contesting the suit. Further the learned trial Court has not recorded any reason for allowing the application of the respondent for withdrawal of the suit.

Learned counsel further states that after withdrawal of the suit, the respondent had sold the land.

On the other hand, learned counsel for the respondent has referred to suit No. 401 of 29.08.2013 in which in para 3, it has been specifically mentioned that Hazoor Singh (grand-father of the respondent) along with his wife in his life time through a family settlement had given his land referred in para No. 1 of the plaint in equal shares to his sons namely Parkash Singh (father of the respondent) and Sukhdev Singh-petitioner herein and who had relinquished all his ownership and possessory rights in favour of his above names sons and this fact was admitted by him in Civil Suit No. 619-1996 decided on 14.09.1996. A collusion decree dated 14.09.1996 was passed in favour of the present petitioner and said Parkash Singh. The mutation was sanctioned on 12.12.1998 in the revenue record. The land inherited by the respondent pursuant to the above said decree was pending execution and the fresh suit was filed only with regard to the will executed by Kulwant Kaur w/o Hazoor Singh.

In view of the above factual position, even if the respondent had sold the land after withdrawal of the suit that land was part of the family settlement and thus, the impugned order dated 18.07.2013 (Annexure P-4) passed by the learned Addl. Civil Judge (Sr. Divn.) Safidon does not suffer from any illegality.

The petition stands dismissed.

August 17, 2017
G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No