

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

**Civil Revision No.6895 of 2016 (O&M)
Date of Decision: 12.10.2017**

Balbir KaurPetitioner
Vs
Amandeep KaurRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ashish Gupta, Sr. Advocate with
Mr. Anupam Gupta, Advocate
for the petitioner along with the
petitioner Balbir Kaur in-person.

Mr. Sumeet Goel, Advocate and
Ms. Ramandeep Kaur, Advocate
for the respondent along with
respondent Amandeep Kaur in-person.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 29.08.2016 passed by the Addl. District Judge, Karnal whereby application under Order 39 Rules 1 and 2 CPC was declined by setting aside the order dated 22.03.2016 passed by the Civil Judge (Jr. Divn.) Karnal.

[2]. Brief facts are that the petitioner/plaintiff filed a suit for declaration with a consequential relief of permanent injunction against the defendants. Plaintiff alleged herself to be the widow of Sukhwant Singh, who was having two sons namely Jitender

Singh and Jagjit Singh besides two daughters. The daughters were married and one of the daughter was living abroad. Jitender Singh was married to the respondent. Out of the said wedlock, two children namely Gurpartap Singh and Sukhman Kaur took birth. Both the minors are living with the respondent. Jitender Singh and husband of the petitioner Sukhwant Singh died in a road accident on 23.02.2008. Plaintiff alleged that the respondent had immediately solemnized her marriage with one Gurkanwar Singh and also took minor children with her. Now minor children are living with their maternal grandmother in a very precarious condition.

[3]. At the time of notice of motion, learned Senior counsel for the petitioner submitted that the dispute is *inter se* between the petitioner and the respondent i.e. daughter-in-law, who has contracted second marriage after the demise of Jitender Singh. The children born out of the wedlock of first marriage are living in a very precarious situation with their maternal grandmother. Petitioner showed her willingness to purchase the suit property at a higher rate than the one projected by the respondent. Notice of motion was issued on that premise and *status quo* regarding alienation of the suit property was also ordered to be maintained in the meanwhile.

[4]. On 12.09.2017, during course of arguments, it was

noticed that the entire land measuring 22 *Kanals* 3 *marlas* is sought to be sold by mother of the children i.e. respondent for which an application under Order 8 of the Guardians and Wards Act was allowed. During course of arguments a consensus was arrived at between the parties, wherein it was decided that the respondent may sell the property in favour of the petitioner @ Rs.27 Lakhs per acre. After selling the land, the sale proceeds shall be kept in some nationalized Bank, accruing maximum interest in the name of the minors. Till their majority, the respondent can only withdraw the interest accruing thereon to meet out the day to day expenses. On that premise further time was sought by learned Senior counsel for the petitioner.

[5]. Today during course of arguments, the petitioner resiled from her earlier understanding on the plea that the respondent has already sold away some land situated in Nissing which was of prime value and the remaining land is of some inferior quality and would not fetch the estimated sale consideration as depicted in the order dated 12.09.2017.

[6]. Both the parties are present in-person in the Court. They have also been heard by the Court. Both the children were reluctant to meet their grandmother. Apparently, after the demise of Jitender Singh, the property would devolve upon the respondent and to that extent petitioner cannot seek any

restraint against the respondent in terms of utilization of the property in the manner as liked by the respondent.

[7]. The respondent after the demise of Jitender Singh has the responsibility of bringing up the minors for which she needs finances. According to her, she is willing to dispose of the property falling to her share and would create healthy nucleus in the names of children in some nationalized Bank, accruing maximum interest and till their majority, she will withdraw only interest on the amount for upbringing of the minors and her expenses.

[8]. In my considered opinion, there cannot be any restraint *qua* utilization of the property against rightful claimants, particularly when future of two minor children is involved, who are in dire need of finances after the demise of their father.

[9]. Looking to the facts and circumstances of the case, I do not see any justification for interfering in the impugned order dated 29.08.2016 passed by the Addl. District Judge, Karnal. This revision petition is accordingly dismissed.

October 12, 2017

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No