

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 6921 of 2017(O&M)

Date of Decision:7.10.2017

Charanjit Singh

---Petitioner

vs.

Harjit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Jag Nahar Singh, Advocate
for the petitioner

Rekha Mittal, J.

Challenge in the present petition has been directed against order dated 18.9.2017 passed by the Civil Judge (Junior Division), Mohali whereby applications dated 23.8.2017 (Annexures P-5 and P-6) filed by the petitioner have been dismissed.

Counsel for the petitioner has submitted that the petitioner has filed civil suit bearing No. 337 dated 24.12.2012 against respondent No. 1 to 3 seeking declaration that the petitioner alongwith respondent Nos. 1 and 2 are the owners in joint possession of the suit property to the extent of 1/3rd share on the basis of natural succession and the alleged Will dated 19.4.2012 in favour of respondent No. 1 is illegal, null and void with consequential relief of permanent injunction. Respondent No. 1 has filed a suit for mandatory injunction directing the petitioner to hand over vacant possession of complete first floor of House No. 1621, Phase-V. SAS Nagar

Mohali and for recovery of damages. The aforesaid suits were consolidated and evidence was ordered to be recorded in the civil suit titled “Harjit Singh vs. Charanjit Singh”. It is argued with vehemence that as there is a serious dispute between the parties with regard to ownership of House No. 1621, Phase-V, SAS Nagar Mohali claimed by respondent No. 1 on the basis of Will dated 19.4.2012 purported to be executed by their mother Ms. Manjit Kaur (since deceased) and the petitioner has claimed 1/3rd right in the said property on the basis of natural succession on the premise that the same was purchased out of joint family funds and as such the same is ancestral property, production of sale deed of the property in question is necessary to enable the petitioner to cross examine Harjit Singh respondent No. 1 in an effective manner. It is argued with vehemence that the trial court has committed a serious error rather illegality by dismissing the applications (Annexure P-5 and P-6).

I have heard counsel for the petitioner, perused the paper book particularly the applications Annexures P-5 and P-6 and the order impugned.

As has been notice hereinbefore, the petitioner and his brother Harjit Singh are involved in legal battle with regard to their rights in the suit house that stands registered in the name of their mother Ms. Manjit Kaur (since deceased). There is no dispute between the parties that the sale deed qua the property in question is in the name of Manjit Kaur. Harjit Singh respondent claims exclusive ownership of the suit property on the basis of Will purported to be executed by Ms. Manjit Kaur. On the contrary, the petitioner claims 1/3rd share in the suit property on the basis of natural

succession as Manjit Kaur is stated to have left behind three class-I heirs including Jasjit Kaur, one of the children of Jagmit Singh and Manjit Kaur. The trial court in the operative para of the impugned order has rightly held that the only dispute is with regard to whether the property in question was self acquired property of Manjit Kaur or it was purchased out of joint family funds and as such was an ancestral property which shall be decided on the basis of evidence to be adduced by the parties. It has further been held that as ownership of the property by Manjit Kaur is not disputed, there is no justifiable ground to direct the plaintiff to produce the original sale deed with respect to the suit property.

Counsel for the petitioner is not in a position to challenge correctness of the factual observations recorded by the trial court. He has failed to advance any meaningful arguments as to how non-production of the documents sought to be produced on the basis of applications Annexures P-5 and P-6 would cause prejudice to rights of the petitioner in cross examining respondent No. 1 effectively or completely. It appears that as respondent No. 1 has filed a suit for mandatory injunction for issuance of directions to the petitioner to hand over possession of first floor of the house in question, the petitioner is in the process of filing repeated applications in order to delay culmination of the proceedings in final judgment. In this view of the matter, I have no hesitation to hold that the applications filed before the trial court and so also the petition to challenge the order impugned have been filed with an ulterior motive to delay conclusion of the trial. In this view of the matter, the petition is liable to be dismissed with

compensatory costs of Rs. 10,000/- and ordered accordingly.

(**Rekha Mittal**)
Judge

7.10.2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No