

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 7291 of 2017(O&M)

Date of Decision:27.11.2017

Jai Kumar and others

---Petitioners

vs.

Gupta Promotors Private Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Sudhir Aggarwal, Advocate
for the petitioners

Rekha Mittal, J.

CM No. 25066-CII of 2017

Heard.

Allowed as prayed for. Affidavit Ex. DW1/A (Annexure P-6) is
taken on record subject to just exceptions.

Application stands disposed of accordingly.

CR No. 7291 of 2017

The present petition directs challenge against order dated
3.10.2017 (Annexure P-5) passed by the Civil Judge (Junior Division),
Gurugram whereby application filed by the petitioners/plaintiffs for de-
exhibiting documents Exs. D2 and D3 and to exhibit certified copy of Will
dated 19.1.2007, has been dismissed.

The sole submission made by counsel for the petitioners is that

as the documents marked as Exs. D2 and D3 in the testimony of Rohit Harbola by way of affidavit Ex. DW1/A, were produced on record by the petitioners/plaintiffs, the same have been wrongly marked as exhibits in the statement of aforesaid witness and liable to be de-exhibited.

Perusal of various documents annexed with the petition would make it evident that the petitioners have filed a suit for declaration with consequential relief of permanent injunction to challenge the collaboration agreement, agreement to sell, general power of attorney, special power of attorney, possession letter, Will and other related documents executed by defendant Nos. 2 to 4 in favour of defendant No. 1 namely Gupta Promoters Private Limited on the premise that the plaintiffs are co-owners in possession of the land in question as the land is coparcenary property of joint Hindu family of which Hari Singh was the 'karta'. On death of Hari Singh in June 2009, mutation No. 1949 was sanctioned in favour of defendant Nos. 2 to 4 (sons of Hari Singh) regarding the said property, therefore, defendants No. 2 to 4 were not competent to enter into any such transaction qua the suit land in favour of defendant No. 1 and the aforesaid documents are illegal, null and void, non est and not binding upon rights of the plaintiffs.

Indisputably, the plaintiffs have admitted execution of documents between defendant Nos. 2 to 4 and defendant No. 1 that has been sought to be declared as illegal, null and void and not binding upon rights of the plaintiffs. The mere fact that the documents marked as Exs. D2 and D3 were produced by the plaintiffs does not debar defendant No. 1 to exhibit the same particularly in the circumstances that there is no dispute

between the parties with regard to execution, relevance and admissibility of the same. This apart, counsel for the petitioners has failed to say something as to what prejudice shall be caused to the plaintiffs in case the documents are marked as exhibits by a witness of defendant No. 1. In this view of the matter, no error much less illegality can be found in the order impugned warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

27.11.2017
paramjit

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