

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CR No.8123 of 2015 (O&M)

Date of decision: 23.08.2017

Raj Kumar Sethi

..... Petitioner

Versus

Kuldeep Kumar Sethi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harkesh Manuja, Advocate
for the petitioner.

Mr. Rajesh Bansal, Advocate
for respondent No.1.

Mr. Surinder Pal Singh, DAG, Haryana
for respondents No.2 to 4.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in revision petition against the order dated 16.11.2015, dismissing the application under Order 1, Rule 10 for adding the subsequent purchasers as party defendants.

Plaintiff had filed a suit for declaration to the effect that house No.213/3, Mahajan Wali Gali, Panipat was allotted to his father, namely, Dina Nath Sethi and he had executed a Will dated 26.10.1988. Plaintiff had further pleaded that two additional Wills were also executed by late Sh. Dina Nath Sethi, one on 30.10.1990 and another Will on 27.05.1996.

Plaintiff had further stated that the defendant No.1 who is his brother had wrongly got a sanad issued from the State of Haryana.

In the written statement, defendant disclosed that he has sold

some portion of the property. The aforesaid sale deeds were executed during the pendency of the suit.

Learned trial Court after appreciating the facts available on the file has chosen to dismiss the application under Order 1 Rule 10 of Code of Civil Procedure, 1908. It has been noticed that the main dispute involved in the present suit would be the validity of the Wills and sanad in favour of the defendants.

I have heard the learned counsel for the parties at length and with their able assistance gone through the record.

It is well settled that once the property is sold during the pendency of the suit, such transfer of the property is hit by the rule of lis pendence. In the present case, the plaintiff is to plead and prove the genuineness of the Wills propounded by him. He is further required to prove that the sanad issued by the Government in favour of defendant No.1 is not valid. In these circumstances, I do not find any reason to interfere with the order passed by the learned trial Court.

With these observations, revision petition is disposed of.

Any observation made by the trial Court or by this Court while deciding the application under Order 1 Rule 10 or this revision petition would not bind the trial Court while finally deciding the suit.

23.08.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No