

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

**Civil Revision No.7864 of 2014 (O&M)
Date of Decision: 12.10.2017**

Hakam Singh

.....Petitioner

Vs

Sarabjit Kaur Shergill and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. S.S. Grewal, Advocate
for respondent No.1.

Mr. Jasbir Rattan, Advocate
for respondent Nos.2 and 3.

RAJ MOHAN SINGH, J.

CM No.15146-CII of 2017

For the reasons mentioned in the application, the
accompanying documents are taken on record.

Application stands disposed of.

Main case

[1]. Petitioner has preferred this revision petition against the
order dated 12.04.2013 passed by the Civil Judge (Jr. Divn.)
Dhuri vide which application filed by the petitioner to sue as

forma pauperis was dismissed and the appeal filed against the said order was also dismissed by the Addl. District Judge, Sangrur vide order dated 22.08.2014.

[2]. Brief facts are that the plaintiff filed a suit for declaration declaring the registered sale deed dated 05.02.2010 and further declaring the registered sale deed dated 07.10.2010 and mutation Nos.9440 and 9445 to be illegal, null and void. Permanent injunction was also sought. Along with the suit, an application for permission to sue as *forma pauperis* was also moved.

[3]. Defendant No.1 contested the application on the ground that the plaintiff and Karamjit Singh, who is husband of the defendant No.1 entered into written compromise on 24.12.2010. Plaintiff put his signature on the compromise admitting the contents to be correct. The plaintiff has purchased 5 *Biswas* 10 *Biswansis* of land in village Dohla vide registered sale deed No.3152 dated 09.02.2011 for a consideration of Rs.03.05,000/-. The plaintiff has also sold property measuring 3 *bighas* for a consideration of Rs.22,60,000/- to defendant No.1 vide sale deed dated 05.02.2010 and has sufficient cash with him for the purposes of paying court fee.

[4]. The trial Court vide order dated 12.04.2013 dismissed

the application of the plaintiff to sue as *forma pauperis*. However 15 days time was granted to make good the deficiency in court fee. While rejecting the application, the trial Court has observed that neither the applicant has approached the Court with clean hands nor he has deposed truly in the Court. The examination of the plaintiff shows that he is an ex-army man and is drawing monthly pension to the tune of Rs.8,000/-. The applicant has already transferred land measuring 5 *Biswas* 5 *Biswansis* for a consideration of Rs.7,50,000/- on 20.07.2011 in favour of his own son before institution of the suit, which was filed on 23.08.2011. The Court also observed that it was an effort to show himself to be landless and indigent person by transferring the property to his son vide sale deed dated 20.07.2011 and, therefore, the applicant plaintiff has not come to the Court with clean hands.

[5]. Learned counsel for the respondents by referring to para no.12 of the judgment dated 22.08.2014 passed by the Addl. District Judge, Sangrur submitted that the plaintiff could not dispute that he has already disposed of his property a month prior to the filing of the suit. The application was declined by the trial Court. Rule 5 Order 33 CPC is very categorical wherein it has been prescribed that the Court shall reject an application for permission to sue as an indigent person, where he has within

two months next before the presentation of the application, disposed of any property fraudulently or in order to be able to apply for permission to sue as an indigent person. Evidently, the applicant has sold away 5 *Biswansis* of land on 20.07.2011 for a consideration of Rs.7,50,000/- and the application in question was filed on 23.08.2011.

[6]. Learned counsel also relied upon list of the properties disclosed by the plaintiff in the application for permission to sue as *forma pauperis*. The list of properties shown by the plaintiff was to the following effect:-

“LIST OF PROPERTY

R/Sir,

The list of property of applicants is as under:-

1	10 wearing clothes	=	Rs.200-00
2.	2 Darri	=	Rs.100-00
3.	4 Razai	=	Rs.200-00
4.	2 Cots	=	Rs.100-00
5.	2 wearing chappals	=	Rs.100-00
6.	some utensils	=	Rs.150-00
<i>Total</i>			Rs.900-00”

[7]. I have heard learned counsel for the parties.

[8]. Evidently, no details of pension were mentioned in the list of properties. The factum of impugned sale deed executed

by the petitioner has not come forth in the aforesaid list, nor the execution of sale deed dated 20.07.2011 for a consideration of Rs.7,50,000/- has been mentioned.

[9]. In view of above, it can be noticed that filing of the application under Order 33 Rule 1 CPC was a clever device to avoid payment of *ad valorem* court fee as required for challenging the sale deed to which the plaintiff himself was the executant. The perusal of sale deed as brought on record by means of CM No.15146-CII of 2017 would reveal that the entire payment was received in advance and nothing was received at the time of registration of the sale deed. The sale deed has been signed in English. At this stage, though no such opinion can be formed with regard to genuineness or otherwise of the sale deed as the same is *sub-judiced* in the present suit, but for the purposes of deciding the application under Order 33 Rule 1 CPC, *prima facie* it can be observed that the prayer is unsustainable for the reasons that the plaintiff has not come to the Court with clean hands. A person, who has not come to the Court with clean hands does not deserve any equitable relief at the hands of the Court. The report received from the office of Collector is silent viz-a-viz. ownership of other properties with the plaintiff.

[10]. Taking into entirety of facts and circumstances of the

case, I find no justification to interfere with the impugned orders passed by the Courts below. This revision petition is accordingly dismissed.

October 12, 2017

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No