

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

CR No.8708 of 2016.

Date of Decision: 20.04.2017.

Seema

....Petitioner.

VERSUS

Sunil Kumar and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Deepa Jain, Advocate for the petitioner.

SNEH PRASHAR, J.

Challenge in this petition is to the order dated 05.12.2016 passed by learned Additional District Judge, Faridabad affirming the order dated 11.05.2016 of learned Civil Judge (Junior Division), Faridabad by virtue of which the application under Order XXXIX Rules 1 and 2 read with Section 151 of the Civil Procedure Code filed by the petitioner-plaintiff seeking to restrain the respondents from alienating the suit property and from interfering in her possession was partly allowed.

The relevant facts as garnered from the impugned order are that the petitioner filed a suit for declaration with consequential relief of permanent injunction restraining the respondents-defendants from interfering in her peaceful possession over Plot No.A-14 measuring 75 square yards, situated at NIT Faridabad. She claimed to be owner in possession on the basis of registered sale deed No.27145 dated 25.03.2013.

restraining the respondents from alienating the suit plot or interfering in her peaceful possession.

The respondents appeared and filed written statement and reply to the application for ad-interim injunction. Respondent No.2 claimed to be owner on the basis of registered sale deed No.17227 dated 30.11.2012 executed by respondent No.1 in her favour on the basis of a will/testamentary document No.1508/3. At the same time, they pleaded that they have no intention to sell the suit plot.

Though learned trial court found no prima facie case to restrain the respondents from interfering in the peaceful possession of the petitioner but in the light of admission of the respondents restrained them from alienating the suit plot. As observed above, the order of learned trial court was affirmed by learned first appellate court. Aggrieved of the same, the instant revision has been filed by the petitioner.

The submissions made by Ms. Deepa Jain, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner argued that the will/testamentary document No.1508/3, on the basis of which respondent No.2 alleges to have executed a registered sale deed in favour of respondent No.1, is a fictitious and bogus document. By way of the said will, the respondents are claiming title over a big chunk of land measuring approximately 700 square yards including the suit plot. The owners/occupants of the other plots forming part of 700 square yards have already got registered a criminal case under Sections 419, 420, 467, 468, 471 and 120-B of the Indian Penal Code against the respondents at Police Station Central, Faridabad. The petitioner being owner in possession of the suit plot

on the basis of the registered sale deed executed in her favour by the true owner is therefore entitled to an injunctive order restraining the respondents from interfering in her possession.

The criminal case registered on the allegation that the will/ testamentary document No.1508/3 dated 07.12.1990 is a fictitious and bogus document is pending in the Court and has not been decided so far. While the petitioner claims to be owner in possession on the basis of a registered sale deed dated 25.03.2013, respondent No.2 claims to have purchased the plot vide registered sale deed dated 30.11.2012 which is prior in time to the registered sale deed of the petitioner. In any case, both the parties are claiming possession over the suit plot on the basis of the respective registered documents in their favour. Each of them will have to prove title of his/her respective vendor to make the registered document legally admissible and before that none can stake a better claim. It has been observed by both the Courts below that so far no document has been produced by the petitioner-plaintiff to prove her exclusive possession over the suit plot.

Resultantly, there being lack of prima facie case in favour of the petitioner, there appears no illegality or perversity warranting interference in the orders passed by both the Courts below. Accordingly, the present petition is dismissed.

(SNEH PRASHAR)
JUDGE

20.04.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**