

CWP No.13388 of 2017

[1]

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

**CWP No.13388 of 2017
Date of decision:03.07.2017**

Ruma

...Petitioner

Versus

State of Haryana and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Tanmoy Gupta, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed in order to impugn the order dated 09.11.2016 passed by respondent no.2, by which he has refused to register the sale deed presented by the petitioner.

Counsel for the petitioner has submitted that the reason assigned for refusal to register the sale deed is totally illegal and has relied upon the sale deed (Annexure P-3) having been registered *de hors* the objection raised by respondent no.2.

I have heard learned counsel for the petitioner and examined the available record.

Section 17 of the Registration Act, 1908 (hereinafter referred to as the "Act") provides that a non-testamentary instrument, which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property, requires compulsory registration. Section 49 of the Act provides the effect of non-

registration of documents required to be registered. Section 71 of the Act deals with the reasons for refusal to register a document to be recorded by the Sub-Registrar. It further provides that in case of refusal, it has to be mentioned by the Sub Registrar in Book No.2, which is provided in Section 51 of the Act. Section 72 deals with the appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.

In the present case, the order Annexure P-2 was appealable in terms of Section 72 of the Act but the petitioner has mentioned in para no.11 of the present petition that *“in these circumstances petitioner has left with no other alternative remedy i.e. appeal/revision except to approach this Hon'ble Court by way of present petition”*.

During the course of hearing, counsel for the petitioner has submitted that the impugned order of refusal to register the sale deed has been passed under Section 71 of the Act and is amenable to challenge by way of appeal under Section 72 of the Act but the writ petition had to be filed because the period prescribed for filing the appeal had expired. The petitioner has, however, not mentioned these facts in the writ petition and has tried to overreach the Court by making false averments, which have been verified by him in 'VERIFICATION', in which it is mentioned that *“verified that the contents of paras No.1 to 9 and 11 & 12 of my above writ petition are true and correct to the best, of my knowledge and the contents of para No.10 on law points are true and correct as per the legal advice of my counsel. No part of it is incorrect and nothing material has been concealed therein”*.

Earlier the writ petitions were entertained by this Court only with verification by the petitioner of the averments made therein but now an affidavit is also required to be filed with the petition, again on oath by the

petitioner that the averments made in the writ petition are true and correct to the best of his/her knowledge. This procedure, to my mind, has been evolved by this Court only to discourage such like litigants who try to play hide and seek with the Court by making false averments and so that they may be made answerable for the false averments, verified on oath in the affidavit.

I would not say much about the conduct of the petitioner as it is reflected from the averments made in the petition. Since the petitioner had the remedy of appeal in terms of Section 72 of the Act which he could have filed in time and had no right to file this petition, by circumventing the right of appeal, on the ground that the period of limitation to file the appeal had expired.

In view of the aforesaid, I do not find any merit in the present petition and hence, the same is hereby dismissed with costs of ₹5,000/-, which shall be deposited by the petitioner with the Legal Services Authority, Palwal, within a period of two months from today.

July 03, 2017
vinod*

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No