

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130

CR-1854-2018

Date of Decision:19.03.2018

Bhupender Kumar

.....Petitioner

Versus

Jai Gopal and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Mukesh Rao, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 17.08.2017 (Annexure P-6) passed by learned Civil Judge (Jr. Divn.) Rewari, whereby application filed by the petitioner seeking appropriate directions to allow him the sitting accommodation at shops, was declined.

Briefly stated, the petitioner filed a suit for declaration with consequential relief of separate possession by way of partition and permanent injunction. While the suit was pending, the respondents-defendants filed their written statement. In the written statement, respondent-defendant No.2 pleaded that Sh. Manohar Lal and Amrawati had executed their Will on 15.12.1994 and 15.05.2002, respectively and therefore, after the death of Manohar Lal, defendant No.2 had become the owner of the property having house tax No.4556 whereas defendant No.1 had become the owner of shops having house tax No.2080 and 2081.

Defendant No.2 had also become the owner of shop No.2178 and 2179 after the death of Smt. Amrawati as per her Will dated 15.05.2002. Thus, defendant No.1 is claiming himself to be exclusive owner of property Nos.2180, 2181, 4557, 4557/7A and 5897/2 whereas defendant No.2 is claiming himself to be exclusive owner of property Nos.4556, 4553 and 2178-79. On the basis of the said averments so made in the written statement and considering the averments made by the petitioner-plaintiff in the application, the learned civil court has dismissed the application with an observation that as on date, the plaintiff is out of possession and he wants his separate exclusive share through partition by metes and bounds. This issue therefore can only be decided by the civil court on the basis of respective evidence so adduced by the parties.

The argument of the petitioner-plaintiff that trial court should issue directions to provide appropriate sitting accommodation at shops for earning to the petitioner, has rightly been rejected as the claim of the petitioner is yet to be adjudicated upon. Moreover, it is not in dispute that as on date, the petitioner is not in possession of any part of the shop.

Therefore, this Court does not find any reason to interfere in the impugned order dated 17.08.2017 (Annexure P-6) passed by learned Civil Judge (Jr. Divn.) Rewari.

Dismissed.

March 19, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No