

254

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4592-2017

Date of decision : 05.02.2018

Anil Kumar

... Petitioner(s)

Versus

Mahender Kaur and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pritam Saini, Advocate
for the petitioner(s).

Mr. Salil Sabhlok, Advocate
for respondent Nos.1 to 8.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the order dated 25.04.2017 (Annexure P-4), whereby an application under Order 38 Rule 5 and Order 39 Rules 1 & 2 read with Section 151 CPC, seeking attachment of the property of defendant in a suit seeking recovery of ₹1,65,00,000/- and damages of ₹ 1,80,00,000/-, has been dismissed.

Learned counsel for the petitioner submits that in the aforementioned pending suit, when the application was filed, the respondent(s) in para No.2 of the preliminary objection and as well as para No.2 of the reply on merits, admitted that during the pendency the suit, they have not disposed of any part of his agricultural land, rather have purchased more land by giving description of the same, but the trial Court has remained oblivious of the aforementioned fact.

Learned counsel appearing on behalf of respondent Nos.1 to 8 does not dispute the contents of the reply, but there is no illegality and perversity in the order, under challenge, thus, urges this Court for dismissal of the present revision petition.

I have heard the learned counsel for the parties and appraised the paper book. For the sake of brevity, Para No.2 of the preliminary objections as well as Para No.2 of the reply on merits reads thus:-

"Para 2 of the Preliminary Objections

That plaintiff/applicant has not pleaded any of ingredient of Order 38 Rule 5 CPC as the respondents are permanent residents of District Yamuna Nagar and are owing land in different villages and there is no occasion with them to leave the jurisdiction of this Hon'ble Court and otherwise, also, answering defendants have not disposed of any part of his agricultural land; rather answering defendants have purchased land during recent time i.e 04.06.2013, 23.08.2013, 20.11.2013 and 21.11.2013 in Village Chhappar Mansurpur, Kheri Darshan Singh, Koolpur and Barara recently. Hence the present application is liable to be dismissed.

"Para 2 of the Reply on Merits

That in reply to para no.2 of the application, it is submitted that the defendants are neither going to leave the jurisdiction of this Hon'ble Court nor going to alienate their land and as such there is no occasion with the plaintiff to file this application."

In view of the stand taken by the respondent(s) in the reply, I am of the view that the grievance of the petitioner stands vindicated as the defendant(s) have undertaken not to alienate the property and no intention to dispose of the land, therefore, the present revision petition has been

rendered infructuous and accordingly, the same is disposed of.

05.02.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**