

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 7717-2015 (O&M)
Date of decision: 22.05.2018

Sukhwinder Singh

.....Petitioner

versus

Sewa Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Randeep Singh, Advocate for the petitioner
Mr.Mukesh K. Bhatnagar, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Heard.

Plaintiff filed a suit for permanent injunction for restraining the defendants from alienating the suit land. Plaintiff claims that defendants had executed an agreement to sell dated 21.5.2014 in his favour. The date of sale deed was fixed for 25.5.2015. Plaintiff had paid Rs.7,50,000/- as earnest money in cash to the defendants. Before the date of sale deed as the defendants were going to alienate the land, therefore, a suit for permanent injunction was instituted on 23.7.2014. The said suit is now stated to be pending for recording of evidence of the defendants. Plaintiff claims that now, upon some inquiry and verification of the documents, he came to know that title of the suit land is defective. The suit land was allotted to the defendants under the Welfare scheme and could not be sold. Allotment was procured fraudulently. The suit land is also lying mortgaged with the bank.

Therefore, he wants to convert the suit for permanent injunction into a suit for recovery. Amendment was declined by the trial Court vide impugned order dated 13.10.2015 passed by learned Civil Judge (Junior Division), Guhla.

Before this Court, learned counsel for the petitioner states that he will be satisfied if he is permitted to withdraw the suit for permanent injunction with liberty to file suit for recovery of earnest money and that the period which was consumed in the proceedings before this Court may be excluded while computing the limitation.

Keeping in view the fact that after filing of the suit, a right has arisen to the plaintiff to file a suit for specific performance of the contract or in the alternative, suit for recovery and the plaintiff for the reasons mentioned in the application, wants to file only suit for recovery, plaintiff is permitted to withdraw the suit for permanent injunction titled as Sukhwinder Singh vs. Sewa Singh and others, pending at Guhla with permission to file fresh suit on the same cause of action for recovery of the earnest money. It is further directed that the period which was consumed in disposing of the application for amendment and the period consumed in present revision before this Court, shall be excluded while computing the limitation.

The present revision petition is disposed of accordingly.

22.05.2018

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No