

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

C.R. No.8050 of 2017

Date of Decision.17.11.2018

Harvinder Singh ...Petitioner

Vs

Beant Singh and others ...Respondents

2. C.R. No.8070 of 2017

Harvinder Singh ...Petitioner

Vs

Bhajan Singh and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.S. Dhaliwal, Advocate
for the petitioner.

Mr. Pankaj Jain, Advocate
for respondent No.1.

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AMIT RAWAL J. (ORAL)

This order of mine shall dispose of two revision petitions bearing Nos.8050 and 8070 of 2017 preferred against the order dated 18.05.2017 passed by the lower Appellate Court at the instance of the plaintiff, who has not been successful in maintaining the injunction order passed by the trial Court in a suit for specific performance whereby the respondents-defendants were restrained from changing the nature of the suit property in any manner till the decision of the suit.

The aforementioned order was assailed by defendant by filing the misc. appeal. The lower Appellate Court while setting aside the order had dismissed the application filed under Order 39 Rule 1 and 2 read with Section 151 CPC by holding that the

agreement to sell dated 15.06.2008 executed by defendant Nos.3 and 4 in favour of the petitioner-plaintiff did not confer any title over the suit property.

Mr. Dhaliwal, learned counsel appearing on behalf of the petitioner-plaintiff submitted that the plaintiff is ostensible owner and therefore, provisions of Section 43 of the Transfer of Property Act should have been looked into.

Despite service, contesting defendants have not appeared, though appeared on numerous occasions. Mr. Pankaj Jain has appeared on behalf of respondent-appellant No.1 i.e. defendant No.5.

This Court while issuing notice of motion in the presence of the counsel, passed the following order:-

“Learned counsel for the petitioner contends that in a suit for specific performance and permanent injunction filed by the plaintiff-petitioner on the basis of agreement to sell dated 15.6.2008, the trial Court granted ad-interim injunction thereby restraining the respondents from alienating the suit property. The lower Appellate Court has reversed the order by observing that defendants No.3 and 4 did not have any title on the basis of agreement to sell dated 18.2.2008 alone.

Learned counsel further contends that on the basis of agreement to sell dated 18.02.2018, sale deed was executed on 23.01.2009.

Notice of motion for 20.04.2018.

Mr. Pankaj Jain, Advocate, accepts notice on behalf of caveator/respondent No.1

In the meanwhile, status quo regarding alienation over the suit property be maintained.”

It has been brought to the notice of the Court that the suit is pending and prayer is made to direct the trial Court to conclude the trial in an expedient manner.

In the interest of justice, I deem it appropriate to dispose of both the revision petitions with direction to the trial Court to conclude the trial within a period of one year by affording 4-4 effective opportunities to the parties to lead evidence in accordance with law. Till then the status quo order granted by this Court vide order dated 28.11.2017 is ordered to be maintained. It is made clear that in case plaintiff is found to be indulged in delaying tactics , defendants shall be at liberty to move an appropriate application in this regard.

The revision petitions are disposed of in the above terms.

(AMIT RAWAL)
JUDGE

November 17, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No