

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2333 of 2017

Date of decision: 26.9.2019

Shivraj Singh

... Petitioner

Versus

Nathu Singh @ Mithu Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sherry K. Singla, Advocate, for the petitioner.

Mr. Vikas Garg, Advocate, for the respondents.

ARUN PALLI, J. (Oral)

The plaintiff is in revision, arising out of an application for injunction under Order 39 Rule 1 & 2 of the Code of Civil Procedure. The trial court, vide order dated 13.9.2016, dismissed the said application, as even the miscellaneous appeal filed against the said order was dismissed on 25.1.2017, the petitioner-plaintiff is in revision before this Court.

While issuing notice of motion on 8.9.2017, this Court had passed the following order:-

“Learned counsel contends that the property in the hand of defendant No. 1 and 2 is coparcenary property. The suit of the petitioner is for declaration to the effect that he is owner of 1/3rd share out of 121 kanals 16 marla of land and 1/3rd share would come to 17 kanal 09 marla. Out of the joint land, 39 kanals have already been transferred in his name and the dispute is of 17 kanal 09 marlas. The learned trial Court has committed an error while holding that the nature of the property no more remained to be joint Hindu family property and respondent No. 1 has full right to enjoy and use the property to the extent of his share.

Learned counsel has relied upon a judgment passed by a Co-ordinate Bench of this Court in a case of Sushil Kumar vs. Smt. Bimla Devi and others, 2013(29) R.C.R (Civil) 525.

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In the meantime, status quo with regard to nature of property and possession be maintained.”

Ex facie, the order, referred to above, has been in operation for over two years. It is not disputed either that the respondents never moved any application seeking variation or modification therein. That being so, this Court is of the view that it would rather be expedient if the revision petition is disposed of only with an observation that the interim order granted by this Court on 8.9.2017 shall operate till the decision of the suit.

Accordingly, without commenting upon the merits of the controversy as also the orders impugned herein, the revision petition is disposed of, with an observation that interim order dated 8.9.2017, “**in the meantime, status quo with regard to nature of property and possession be maintained**”, would operate till the decision of the suit. In the given facts and circumstances, the trial court is also directed to limit the number of opportunities to be granted to the parties to complete their pleadings and/or lead evidence and decide the suit within one year from today.

Needless to assert that interim order dated 8.9.2017, passed by this Court, shall not constitute any expression of opinion on the merits of the case of either party.

**(ARUN PALLI)
JUDGE**

September 26, 2019

AK Sharma

Whether speaking / reasoned:

YES

Whether Reportable:

YES/NO