

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.905 of 2019(O&M)
Date of Decision: 12.03.2019

Parbhjot Kaur and othersPetitioners

Versus

Gurmeet KaurRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. A.K. Walia Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 07.01.2019 passed by Additional District Judge, Mansa in Civil Misc. Appeal No.7 dated 10.04.2017 vide which appeal filed by the defendant/respondent was partly allowed and order passed by the trial Court was modified.

[2]. Petitioners are minor daughters of deceased Lakhvir Singh son of Jagsir Singh. Father of the petitioners i.e. son of the respondent died on 17.01.2016. Petitioners claimed maintenance from the estate of their father. The suit was filed under Order 33 Rule 1 CPC for grant of maintenance by creating charge on the suit property. After the death of their

father, the petitioners were allegedly turned out from the house and were not maintained by the respondent. Plaintiffs/petitioners have no source of income and the property belonging to their father remained in possession of the respondent which is a joint property and no partition had taken place.

[3]. Trial Court vide order dated 28.03.2017 passed an order in the application under Order 39 Rules 1 and 2 CPC directing the defendant/respondent not to alienate the suit property except with the permission of the Court. In the appeal filed by the respondent before the Lower Appellate Court, the Lower Appellate Court modified the order dated 28.03.2017 passed by the trial Court and held that one acre of land would suffice to serve the purpose of maintenance of the petitioners.

[4]. While issuing notice of motion on 07.02.2019, following order was passed:-

“Learned counsel for the petitioners contends that modification of order dated 28.03.2017 passed by Civil Judge (Senior Division), Mansa on the premise that one acre of land would suffice to serve purpose of maintenance is wholly illegal as the maintenance amount cannot be presumed to subsist for the period in which consideration of one acre of land would satisfy the claim of the petitioner.

Notice of motion for 12.03.2019.

Till the next date of hearing, status quo regarding alienation of the suit property be maintained.”

[5]. As per office report, notice issued to the respondent has been received back duly served. None appeared on behalf of the respondent despite two pass overs.

[6]. I have heard learned counsel for the petitioners.

[7]. After hearing learned counsel for the petitioners, I am of the view that uncertainty looms large over the fate of the suit in terms of time in which the same would be disposed of on merits. Amount of maintenance would not remain in force only for a limited period in which one acre of land would suffice to serve the claim of the petitioners. In the absence of any proper valuation of the property, no such final assessment can be made. Selling of one acre of land by the respondent would be a subjective thing in terms of readiness and willingness of the prospective buyer and for such consideration which would be settled between the parties.

[8]. Since, there is no fixed time frame in which the suit would be decided, therefore, in my considered opinion, the indulgence granted by the trial Court is not liable to be reversed by the Lower Appellate Court by confining the prayer to the extent of one acre only.

[9]. In view of above, it would be just and appropriate to maintain the order dated 28.03.2017 passed by the trial Court vide which direction was issued to the defendant/respondent not

to alienate the suit property except with the permission of the Court. Permission of the Court would suffice to serve the interest of all concern. In the event of such contemplation by the respondent, the trial Court may evolve suitable mechanism keeping in view the welfare of the petitioners at the given juncture.

[10]. In view of above, impugned order dated 07.01.2019 passed by Additional District Judge, Mansa is not legally sustainable. Consequently, this revision petition is allowed. However, the trial Court shall make every endeavour to decide the suit at the earliest.

12.03.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No