

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

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**CM no. 6863-CII of 2019 in/and
CR no. 1728 of 2019 (O & M)
Date of Decision : 28.3.2019**

Ashraf

.....Petitioner

v.

Arshad

.....Respondents

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present : Mr. Ghulam Nabi Malik, Advocate, for the applicant/petitioner

Amol Rattan Singh, J. (Oral)

CM no. 6863-CII of 2019 :

Pursuant to the order dated 18.3.2019, this application has been filed seeking to place on record a copy of the plaint filed earlier by the petitioner and the respondent in the accompanying petition, in a suit instituted by them against their uncle, Sahbudeen alias Subba, as also an Award passed by the learned Lok Adalat in that *lis*, copies of the said documents being Annexures P7 and P8 respectively.

The application is allowed subject to all just exceptions and the aforesaid documents are taken on record in the accompanying petition as Annexures P-7 and P-8.

Main Case :

Through this petition, filed under Article 227 of the Constitution of India, a prayer is made for setting aside the order dated 6.12.2018, passed by the learned Additional District Judge, Yamuna Nagar, by which an order dated

19.7.2018, passed by the learned Civil Judge (Junior Division), Jagadhri, has been set aside.

Learned counsel for the petitioner submits that though, undoubtedly, as per the Award passed by the Lok Adalat on 3.5.2010, the uncle of the parties to this petition had suffered a statement in their favour, upon which they were both declared to be owners in possession of the property as is subject matter of that *lis*, including residential houses which are stated to be subject matter of the present *lis*, with both of them declared to be so in equal shares; however, the respondent, while taking shelter of the order impugned in this petition, passed by the learned Additional District Judge, Yamuna Nagar, on 6.12.2018, is forcibly trying to take possession of the suit property.

Though learned counsel for the petitioner points to paragraph 5 of the written statement filed by the petitioner in response to the suit instituted by the respondeont-plaintiff (in the present *lis*), to submit that there was a family settlement between the parties prior to the filing of the suit against their uncle, by which the houses in question were to be given to the petitioner, however, no such settlement having been placed on record before this Court or the Courts below so far, I see no ground to interfere with the impugned order, with the Award of the Lok Adalat very clearly stating that the petitioner and the respondent herein (plaintiffs in that *lis*) were both declared to be owners in possession of the suit property in that *lis*, in equal shares, (which admittedly includes the two houses in question in the present *lis*).

Consequently, this petition is dismissed, but with it observed that, naturally, nothing stated hereinabove in this order, or by the learned Courts below in the orders passed by them on the application filed by the respondent

herein under Order 39 Rules 1 and 2 CPC, would be taken to be any observation on the merits of the case between the parties, which would be adjudicated upon wholly in terms of the evidence led by them.

(AMOL RATTAN SINGH)
JUDGE

28.3.2019
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No