

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 112

Case No. : C. R. No. 2137 of 2019 (O&M)

Date of Decision : May 13, 2019

Jaimal Singh Petitioner

vs.

Narinder Pal Kaur and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. G. S. Nagra, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 08.01.2019 passed by Additional Civil Judge (Senior Division), Ajnala (for short – the Trial Court), through which an application filed by the petitioner under Section 151 CPC for issuance of a direction to the respondents to maintain status quo and not to alienate the suit property during the pendency of the suit has been dismissed.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that the petitioner filed a suit seeking therein to be declared owner in possession of half share of the land detailed and described in the head note of the plaint (for short – the suit property). Such claim was based on a Will dated 22.12.2006 allegedly executed by Baldev Singh. Mutation no. 4436 in favour of respondents was

also challenged. Permanent injunction to restrain the respondents from interfering in the peaceful possession of the petitioner and/or from dispossessing him from the suit property as also from alienating the same was also sought. Along with the suit, the petitioner filed an application under Order 39 Rules 1 and 2 read with Section 151 CPC seeking therein temporary injunction to restrain the respondents from dispossessing the petitioner as also alienating the suit property. Such application was considered and dismissed by the Trial Court on 19.01.2015. Since such order was not challenged by the petitioner, the same attained finality.

While the petitioner was leading his evidence, an application under Section 151 CPC was filed by him seeking therein to restrain respondent no.1 Narinder Pal Kaur from alienating the suit property as according to him, she had entered into an agreement to sell part of the suit property on 04.05.2018. Such application filed by the petitioner was dismissed by the Trial Court through the order, which is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

Through his suit, the petitioner seeks to be declared owner in possession of half share of the suit property. Along with the suit, he had also filed an application under Order 39 Rules 1 and 2 read with Section 151 CPC seeking therein to restrain the respondents from dispossessing him as also alienating the suit property during the pendency of the suit. The Trial Court, through its order dated 19.01.2015, after concluding that the petitioner had prima facie neither established his possession nor his case on

merits, dismissed the aforesaid application. While doing so, the Trial Court specifically rejected the petitioner's prayer seeking stay of alienation of the suit property. Admittedly, such order of the Trial Court was not challenged by the petitioner. Therefore, the same attained finality.

While the petitioner was in the midst of leading his evidence, he filed an application under Section 151 CPC seeking to restrain respondent-Narinder Pal Kaur from alienating a part of the suit property.

Once the aforesaid application filed by the petitioner under Order 39 Rules 1 and 2, seeking interim stay, has been dismissed by the Trial Court after the Trial Court did not find any prima facie case in favour of the petitioner and that order attained finality, the instant application filed by the petitioner for the same relief was rightly dismissed by the Trial Court, especially when no further evidence was brought on record by the petitioner to show any prima facie case in his favour.

In view of the above, as also for the reason that any alienation made by the respondents during the pendency of the petitioner's suit would be hit by the principles of lis pendens, no merit is found in the present petition.

Dismissed.

(DEEPAK SIBAL)
JUDGE

May 13, 2019
monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.