

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 117

CR-3211-2019 (O&M)

Date of decision : 15.05.2019

Suresh

..... Petitioner

VERSUS

Raj Bala and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ajay Jain, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 20.04.2019, passed by the Civil Judge (Junior Division), Hisar (for short, the Trial Court), dismissing an application filed by the petitioner seeking early hearing of his application filed by him for interim stay. Also under challenge is the order dated 08.05.2019, passed by the Trial Court, through which a similar prayer, as above, made by the petitioner, was again rejected by the Trial Court.

On 26.03.2019 the petitioner filed a suit seeking therein to challenge the sale deed dated 16.07.2013 executed by respondent No.4 in favour of respondent No. 3 with regard to land measuring 16 kanals; sale deed dated 29.09.2011 executed by respondent No. 4 in favour of respondent No. 2 with regard to land measuring 2 marlas and 7 sarsai and sale deed dated 14.02.2012 executed by respondent No. 4 in favour of respondent No. 1 with regard to land measuring 15 kanals, 19 marlas and 4 sarsai. The respondents were further sought to be restrained from interfering in the peaceful possession of the petitioner as also from alienating the suit property. Alongwith the suit, an application under Order 39 Rules 1 and 2 CPC was also filed by the petitioner seeking interim stay for protecting his possession as also to direct the respondents not to further alienate the suit property during the pendency of the

suit. On 26.03.2019 the Trial Court issued notice of the suit to the respondents who were served on 10.04.2019. Thereafter the matter was adjourned to 15.07.2019 for filing reply and for arguments on the application filed by the petitioner under Order 1 Rule 10 CPC for impleading Smt. Sumitra wife of Bhajan Lal as defendant No. 5 in the suit. The petitioner then came to know that on 05.04.2019 respondent No. 3 had executed a sale deed to sell part of the suit land and therefore, he filed an application for preponing the date of hearing of his suit or at least the application for stay. The Trial Court dismissed the petitioner's application through order dated 20.04.2019. The petitioner filed another application for preponing of the date of hearing of his suit or at least his stay application which was again dismissed by the Trial Court on 08.05.2019. The aforesaid orders of the Trial Court are under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

The petitioner filed his suit challenging therein certain sale deeds executed by respondent No. 4. One of his prayers in the suit is to restrain the respondents from alienating the suit property. Alongwith his suit, he has filed an application under Order 39 Rules 1 and 2 CPC seeking interim stay. Notice in his suit as also his application for interim stay has been issued which has been served upon the respondents. The petitioner alleged that after the filing of his suit, on 05.04.2019 respondent No. 3 has alienated part of the suit property. Though such alienation by respondent No. 3 would be hit by the principle of *lis pendence*, but once the petitioner alleged that after the filing of his suit, one of the respondents/defendants was alienating part of the suit property, to avoid multiplicity of litigation, the Trial Court should have adjudicated upon the petitioner's application for

interim stay.

In view of the above, the impugned orders are set aside and the Trial Court is directed to decide the petitioner's application for stay within two weeks from the date of receipt of a certified copy of this order, of course, after giving adequate notice and opportunity to the respondents.

The present petition is allowed in the above terms.

If the respondents are aggrieved by this order, they are at liberty to approach this Court through an appropriate application.

15.05.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No