

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 31.5.2019

CR No. 3757 of 2019(O&M)

Uma Gupta

---Petitioner

versus

Shivi Sabharwal and others

---Respondents

CR No. 3758 of 2019(O&M)

Uma Gupta

---Petitioner

versus

K.C.Sabharwal and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Aayush Gupta, Advocate
for the petitioner**

Rekha Mittal, J.

This order will dispose of CR Nos. 3757 and 3758 of 2019 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from CR No. 3758 of 2019.

The sole submission made by counsel for the petitioner is that as the petitioner is a bona fide purchaser of the property in question, a serious prejudice shall be caused to her in case respondent No. 1 is able to recover possession of the suit property in pursuance of warrants of

possession issued by the court below, to be executed with police help, even without an application for execution having been filed by respondent No. 1. In addition, it is argued that in case respondent No. 1 is successful in recovering possession, the petitioner may not be able to recover back possession for longer period who had spent hard earned money to purchase the property in question.

Be that as it may, it is undisputed position of the case that M/s Rajan and Brothers through its partner Sh. Rajan Kumar filed eviction application dated 29.2.2012, decided on 12.11.2012. In pursuance of the eviction order passed by the Rent Controller, respondent No. 1 was dispossessed from the property in question. Later, he filed an application under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure (in short “the Code”) for setting aside ex parte eviction order dated 12.11.2012 and ex parte proceedings dated 2.6.2012 and the same was allowed by the court below vide order dated 26.4.2016. Since the eviction order in pursuance whereof possession was recovered from respondent No. 1 was set aside in appropriate proceedings, respondent No. 1 filed an application under Section 144 of the Code for restoration of possession wherein the court has ordered for issuance of warrants of possession to restore possession of respondent No. 1. The petitioner, at best, would step into shoes of her vendor on the basis of purchase of property, she cannot claim better rights than that of her vendor in order to deny right of possession to respondent No. 1 against whom the ex parte eviction order has been set aside and as a result eviction proceedings have been restored to its original position and stage. As such, the petitioner being purchaser pendente lite can not raise the plea of bona fide purchaser. In this

view of the matter, I do not find an error much less illegality in the impugned order, warranting intervention in exercise of jurisdiction under Article 227 of the the Constitution of India.

For the foregoing reasons, the petitions fail and are accordingly dismissed in limine.

(Rekha Mittal)
Judge

31.5.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No