

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104 - CWP-1037-2021 (O&M)

Date of Decision: 15.01.2021

Neeru Bala & Ors.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Sandeep Siwach, Advocate for the petitioner

Ms. Maloo Chahal, DAG Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

The petitioners Neeru Bala and two others have filed the present writ petition *inter alia* with a prayer seeking a direction for issuance of a writ in the nature of certiorari for setting aside the order dated 23.09.2016 (P4) and further a writ of mandamus for staying the operation and implementation of the impugned order dated 23.09.2016 (P4), passed by respondent No. 2, whereby the petitioner has been ordered to pay deficiency of Court fee of Rs.8,75,612/- till the decision of the application under Order 9 Rule 13 CPC dated 01.12.2020 (P5) filed by the petitioner for setting aside the ex-parte order dated 09.09.2016 (P3) and 23.09.2016 (P4) along-with stay application dated 01.12.2020 (P6) as the matter involving stay has not been heard by the respondent No. 1 and no date of hearing has been given.

Learned counsel for the petitioner based upon the pleadings in the petition, by making reference to the pleadings in the petition, submits that petitioner No. 1 and Rohit Garg (to whom petitioner had got married) could

not live together. Out of the wed-lock, two male children namely Moksh Garg and Keshav Garg (petitioner Nos.2 and 3) had born. It is then submitted that on 14.05.2013 (P1), a gift deed was executed. Thereafter, on 22.05.2013 divorce petition was allowed. The grievance of the petitioner is that an order dated 23.09.2016 (P4) was passed by the Collector (ADC), Mansa thereby ordering deficiency in Court fee. Aggrieved by the said order, the petitioner filed an application under Order 9 Rule 13 CPC for setting aside the ex-parte proceedings. The grievance of the petitioner is that the said application under Order 9 Rule 13 CPC filed on 01.12.2020 has not been decided and on the other hand, learned counsel orally submits that the Patwari of the area has informed the petitioner that their property shall be auctioned in compliance of the impugned order dated 23.09.2016.

Notice of motion.

On the asking, Ms. Maloo Chahal, DAG Punjab accepts notice on behalf of the respondents through video conferencing.

In the peculiar facts and circumstances as noticed above, the competent authority i.e. Collector (ADC), Mansa who is hearing the petitioner's case, is directed to decide the application(s) filed by the petitioner on 01.12.2020 under Order 9 Rule 13 CPC as well as for interim stay, expeditiously preferably within a period of one month from the date of receipt of certified copy of the order. It is also directed that the said application be decided at least a week prior to the execution of the order dated 23.09.2016.

The writ petition stands disposed of.

15.01.2021

*Shruti
vishal shonkar*

**(Girish Agnihotri)
Judge**

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No