

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17109 2021

Date of Decision: 02.09.2021

Laxmi Narain and another

...Petitioners

Versus

Presiding Officer National Lok Adalat-cum-Civil Judge-cum-Chief Judicial
Magistrate, Rewari and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: - Mr. Amit Kumar Jain, Advocate,
for the petitioners.

LISA GILL. J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Prayer in this writ petition is for setting aside judgment and decree dated 12.12.2020, passed by the Presiding Officer National Lok Adalat-cum-Civil Judge-cum-Chief Judicial Magistrate, Rewari whereby suit of the plaintiffs i.e. respondents no.2 to 9 in this petition, has been decreed on the basis of admitted written statements and settlement between the petitioners and contesting defendants.

Brief facts necessary for adjudication of the matter are that plaintiffs i.e. respondents no.2 to 9 filed a suit for declaration to the effect that the plaintiffs and the proforma defendants (arrayed as respondents no.22 to 28 in this petition and defendants no.14 to 20 in the plaint) are owners in possession of the suit property as described in the plaint as well as memo dated 14.02.2017 issued by Land Acquisition Collector, Gurugram, wherein

respective shares of the plaintiffs were mentioned. Plaintiffs also sought a decree of permanent injunction to the effect that defendants no.1 to 13 be restrained from alienating or create any charge or interfere in the peaceful possession of the plaintiffs and the proforma defendants. Plaintiffs claimed to be owners in possession of the suit property measuring 3 Kanals 7 Marlas as per memo no.2244 dated 14.02.2017 and pleaded that Will dated 14.06.2011 in favour of defendants no.13-A Karan Singh son of Shiv Dayal, executed by Durga Devi could not confer any benefit on him as she was not having any right in the property at the time of execution of the Will. It is pleaded that the plaintiffs and proforma defendants had already constructed their houses in the disputed land prior to the notification under Section 4 of the Land Acquisition Act 1894 with mutual oral agreement between co-sharers. Consequently plaintiff and proforma defendants have filed their objections under Section 5A of the LAC Act for release of their constructed houses in Killa No.1/1, Rectangle No.13. In pursuance thereto Land Acquisition Collector issued letter No.2244 dated 14.02.2017 in which detail of the land released measuring 3 Kanal 7 Marla of Rectangle No.13, Killa No.1/1 in favour of the plaintiff and proforma defendants as per their construction was issued. However, entries of the revenue record of land measuring 3 Kanal 7 Marla continued in favour of all the parties to the suit as owner in possession. Defendants No.1 to 13-A had already taken entire compensation as per their total share in the land measuring 34 Kanal 3 Marla and this fact is also corroborated by letter memo No.2244 dated 14.02.2017 issued by LAC, Gurugram. So the defendants No.1 to 13-A it is pleaded had no right, title or interest in the disputed land measuring 3 Kanal 7 Marla. However, due to wrong entries in the revenue record in the column of ownership of defendants

No.1 to 13-A were alleged to be forcibly interfering in the peaceful possession of plaintiffs. Durga Devi and Fakir Chand who were recorded as co-owners in the suit property, had expired in January and February 2017, therefore their legal representatives-defendants no.8 to 13 were impleaded as parties to the suit. It is further pleaded that deceased Durga Devi had received the entire compensation amount qua total share in her land including the suit land and was having no right in the suit land. Thus it was prayed that decree for declaration that plaintiffs and proforma defendants are owners in possession of the suit land bearing Khewat No.137, Khatoni No.155, Rectangle No.13, Killa No.1/1/1 measuring 3 Kanal 7 Marla as mentioned in para No.1 of the plaint as well as mentioned in letter No.2244 dated 14.02.2017 issued by Land Acquisition Collector, Gurugram, be passed in favour of the plaintiffs and proforma defendants and against the defendants with relief of injunction as prayed for.

It is to be noted that present petitioners (arrayed as defendants no.3 and 4 in the plaint) alongwith defendants no.1, 2, 5 to 10 filed a joint written statement dated 28.04.2017, admitting the claim of plaintiffs. Written statement dated 18.12.2017 contesting the claim was filed by defendant no.13-A namely Karan Singh.

Learned Civil Judge (Sr.Division)-cum-Chief Judicial Magistrate-cum-Presiding Officer, National Lok Adalat, Rewari, vide impugned order dated 12.12.2020 (Annexure P7) decreed the suit while taking note of the fact that written statement admitting the claim of the plaintiffs has been filed on behalf of defendants no.1 to 10. Proforma defendants no.14 to 20 clearly admitted the plaintiffs claim and during pendency of the suit a

compromise stood effected between the plaintiffs and contesting defendants no.11 to 13. It is specifically noted in order dated 12.12.2020 as under:-

However, during the pendency of the suit a compromise has been effected between the parties. The contesting defendants no.11 to 13 have appeared and made a statement in the court admitting the claim of the plaintiffs and prayed that the suit of the plaintiff may kindly be decreed. Joint statement of defendants no.11 to 13 recorded separately in the presence of their counsel.

Heard. Admitted written statement of defendants no.1 to 10 and proforma defendants No.14 to 20 and statement of defendants No.11 to 13 made in the court perused. The same is lawful and is not against the public policy. Parties to the suit have arrived at compromise with bonafide intention and the compromise will end the litigation between the parties to the suit. Hence, the decree is hereby passed and claim of the plaintiffs is allowed as per admitted written statements of defendants No.1 to 10 and proforma defendants No.14 to 20 and statement of defendants no.11 to 13 made in the court. The decree shall be binding between the parties to the suit. The plaint, admitted written statements of defendants No1 to 10 and proforma defendants No.14 to 20 and statement of defendants No.11 to 13 made in the court, site plan filed along with plaint and letter bearing No.2244 dated 14.02.2017 issued by Land Acquisition Collector, Urban Estate Gurugram, Haryana shall be treated as part and parcel of the judgment and decree. The compromise decree is hereby passed and claim of the plaintiffs is allowed in terms of the prayer as prayed for in the suit subject to all just encumbrances. Decree sheet be prepared

accordingly. Main file be consigned to record room after complying with Rule 3 4 of the Chapter 16 Part F Volume IV of Hon'ble High Court Rules and Orders.

Aggrieved of the same, present writ petition has been filed.

Learned counsel for the petitioner vehemently argues that petitioners were not aware about the contents of the written statement and the same has been wrongly filed as they reposed complete faith on respondent no.9 namely Rajinder Kumar, their nephew. Learned counsel contends that the fact of petitioners not being aware of the admitted statement is reflected from filing of Civil Suit No.1378/2020 seeking partition of the suit property (Annexure P4) as well as Civil Suit No. 1692/2020, challenging memo no.2244 dated 14.02.2017, issued by the Land Acquisition Collector, Gurugram (Annexure P6).

I have heard learned counsel for the petitioners and have gone through the file with his able assistance.

It is a matter of record that respondents no.2 to 9 filed a suit for declaration to the effect that plaintiffs and proforma defendants are owners in possession of the suit property as described in the plaint. It is the case of the said plaintiffs that they alongwith the proforma defendants had constructed their house on the disputed land prior to notification under Section 4 of the Land Acquisition Act, vide which the land in question had been acquired. They filed objections under Section 5-A of the Land Acquisition Act. Pursuant thereto, the Land Acquisition Collector vide memo dated 14.02.2017 had released the land on which construction was raised by the plaintiff and proforma defendants. It is further pleaded that defendants in the suit had taken the compensation as per their share in the total land measuring 34 Kanal 3

Marlas. Written statement filed on behalf of defendants no.1 to 10, which included the present petitioners, who were arrayed as defendants no.3 and 4 in the plaint, is not denied. However, it is sought to be explained that the petitioners were not aware of the contents of the written statement and the same had been wrongly filed on their behalf merely because they had reposed complete faith in their nephew defendant no.9 – Rajinder Kumar, who had played foul. In my considered opinion, there is no merit in this argument.

Learned counsel for the petitioners is unable to even *prima facie* substantiate the claim of fraud being committed by respondents no.2 to 9 or any fraud having been committed qua the petitioners by respondent no.9 – Rajinder Kumar. Learned counsel for the petitioner is unable to point out any action which may have been taken by them against Rajinder Kumar in this respect.

It is relevant to note at this stage that a suit for partition i.e. Civil Suit No.1378/2020 (Annexure P4) was filed and it has been stated therein that there is no other suit pending between the parties. In case version of petitioners is to be believed and they were contesting the suit, such declaration in a suit filed subsequent to filing of their written statement is clearly reflective of lack of bonafides on their behalf. It is also relevant to note at this stage that petitioners have admittedly never challenged memo dated 14.02.2017. It is further to be noticed that a suit for declaration i.e. Civil Suit No. 1692/2020 (Annexure P6) is reflected to be filed on 15.12.2020 i.e. after passing of impugned order dated 12.12.2020. Written statement admitting the claim of plaintiffs was filed on 28.04.2017.

There is also no merit in the argument raised by learned counsel for the petitioner that no opportunity of hearing was afforded by the learned

Presiding Officer National Lok Adalat-cum-Civil Judge-cum-Chief Judicial Magistrate before passing the impugned order dated 12.12.2020. All the parties were duly represented by their counsel. Statements of the contesting defendants are duly reflected to have been recorded.

Therefore, I do not find any ground whatsoever to interfere in exercise of writ jurisdiction for setting aside impugned judgment and decree dated 12.12.2020.

No other argument has been addressed.

Writ petition is accordingly dismissed with no order as to cost.

02.09.2021

Sunil

**(LISA GILL)
JUDGE**

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