

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 487 of 2022

Date of Decision: 18.02.2022

Jai Kumar

... Petitioner(s)

Versus

Amar Nath and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Diwan S. Adlakha, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The plaintiff (the petitioner herein) assails the correctness of the orders dated 15.07.2021 and 03.01.2022.
2. An application, filed by the plaintiff, for grant of temporary injunction, has been dismissed by the trial Court. The same has also been affirmed by the First Appellate Court. The petitioner is a plaintiff in a suit for grant of decree of permanent injunction restraining the defendants from interfering in the actual, physical and peaceful possession of the plaintiff over the land measuring 563 square yards.
3. Both the Courts below, on appreciating the documents available on the record, have opined that the petitioner relies upon a family settlement, however, failed to disclose the date or year in which it was entered. Both the Courts below have also noticed that although no doubt, the plaintiff's mother had suffered a consent decree on 22.12.1989 in favour of the defendants, however, the property in dispute has not been included therein.

4. The learned counsel representing the petitioner, while drawing the attention of the Court to the plaint filed in the year 1989, contends that since it has been recited in the plaint that the defendants have been given the other property, therefore, the property has fallen to the share of the plaintiff's mother and after her death, in favour of the plaintiff.

5. It would be noted here that the plaintiff and the defendants are related to each other. No doubt, there was a consent decree passed in favour of the defendants on 22.12.1989, which refers to a family settlement. However, a copy of such family settlement has not been produced.

6. At this stage, it is not considered appropriate to conclude that the property in dispute was included in the other property, as referred to in para 3 of the plaint filed in the year 1989.

7. Keeping in view the aforesaid facts, no ground to interfere with the concurrent orders passed by both the Courts below, is made out. However, the revision petition is disposed of with the observation that the *prima facie* findings, arrived at by this Court as well as both the Courts below, will not be binding and the trial Court shall proceed to decide the suit without being influenced by the observations made herein.

(Anil Kshetarpal)
Judge

February 18, 2022
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No