

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8494 of 2017(O&M)
Date of Order: 05.04.2022

Jasvir Singh

..Petitioner

Versus

Amolakh Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Bajwa, Advocate
for the petitioner.

Ms. Rupinder Kaur Thind, Advocate
for respondent no.1.

Mr.R.S.Pandher, Advocate
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

The petitioner herein, is the plaintiff in a suit for grant of decree of specific performance of the agreement to sell dated 04.05.1993. The plaintiff alleges that defendant no.1 after having been allotted the plot has also executed a General Power of Attorney in favour of the plaintiff's father on 04.05.1993. An application filed for grant of temporary injunction restraining defendant no.1 from disposing of the property during the pendency of the suit has been dismissed by both the Courts below.

On 06.12.2017, after having heard the learned counsel representing the petitioner, the following order was passed:-

“Learned counsel for the petitioner contends that the defendant-respondent executed an agreement to sell in favour of the plaintiff-petitioner’s father in the year 1993 in respect of the suit property and also executed a power of attorney in his favour authorizing him to sell the suit property to any person. The aforementioned power of attorney was duly registered. The plaintiff-

petitioner's father on the basis of the aforementioned power of attorney, executed an agreement to sell in respect of the suit property in favour of the plaintiff-petitioner (his son) on 4.5.1993. However, sale deed could not be executed in view of ban having been imposed by the Government against transfer of land under the Land Disposal Rules. The ban which was imposed by the State Government was lifted in the year 2006. In the meantime, father of the defendants-respondents allottee of the suit land had died. Therefore, the plaintiff-petitioner served a legal notice on the defendants-respondents to execute the sale deed in his favour and on refusal, the plaintiff-petitioner filed a suit in question for specific performance of agreement to sell dated 4.5.1993 along with an application for restraining the defendants-respondents from alienating the suit land in favour of any other person except the plaintiff-petitioner. However the same was dismissed by the learned trial Court as well as the learned lower Appellate Court on the ground that no prima facie case was made out; besides, number of years have elapsed and therefore, suit for specific performance was not maintainable.

Learned counsel by relying on paragraph No. 27 of the decision of the Hon'ble Supreme Court in Satya Jain (D) through LRs. and others v. Anish Ahmed Rushdies (D) through LRs and others, 2013 (8) SCC 131 contended that no specific time had been fixed in the agreement to sell for execution of the sale deed. Besides, finding of the Courts below that prima facie case had not been made out was factually incorrect.

Notice of motion for 18.12.2017.

Dasti only.

Liberty to effect service on the respondents through the counsel representing them before the learned trial Court.

In the meantime, no third party rights be created till the next date of hearing before this Court.

To be shown in the urgent list."

It has been noticed that the suit for specific performance of the agreement to sell is pending for more than last 8 years. The interim order has continued to operate for the last 4½ years.

The learned counsel representing the respondent contends that the petitioner is yet to prove the agreement to sell dated 04.05.1993 in his

favour and the General Power of Attorney executed in favour of the plaintiff's father was cancelled on June, 2006. Obviously, there was some transaction between the plaintiff and defendant no.1.

Keeping in view the aforesaid facts, the revision petition is disposed of while requesting the trial Court to conclude the hearing of the suit within a period of one year, from today.

In the meantime, the interim order dated 06.12.2017 shall continue to operate during the pendency of the suit.

All the pending miscellaneous applications, if any, are also disposed of.

April 05, 2022

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(ANIL KSHETARPAL)
JUDGE

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