

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CR No.1055 of 2022

Date of Decision: 25.03.2022

M/s KRL Trading

.....Revisionist-petitioner.

Versus

Hamid Khan and another

.....Respondents.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Lokesh Sinhal, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the order dated 09.02.2021 (Annexure P-4) passed by the Civil Judge (Junior Division), Faridabad (for short 'the trial Court') whereby the application moved by respondent No.1-plaintiff (for short 'the plaintiff') for seeking interim injunction has been allowed as well as the order dated 16.12.2021 (Annexure P-5) as handed down by the Additional District Judge, Faridabad (for short 'the appellate Court') dismissing the appeal as preferred by the petitioner-defendant No.2-Firm (for short 'defendant No.2') against the order Annexure P-4, defendant No.2 has chosen to prefer the instant revision petition.

As per the brief factual-matrix, culminating in this revision petition, the plaintiff filed a Civil Suit against defendant No.2 and proforma respondent No.2-defendant No.1 (for short 'defendant No.1') for seeking a decree for declaration as well as for permanent injunction while averring

that his as well as defendant No.1's grandfather named Chhuttan was, initially, the owner in possession of the suit land and he mortgaged the same in favour of Imamuddin etc. Then, in pursuance of the Scheme floated by the Government of India, the said land was got redeemed by him. Though the warrant of possession qua this land was issued in his favour but throughout during his lifetime, he could not get the possession of the same. His son Abdul Rajjak, the father of the plaintiff and defendant No.1 and other grandsons of Chhuttan namely Ibrahim etc, filed a Civil Suit through their attorney, i.e the plaintiff, against the State of Haryana for seeking the relief of mandatory injunction by way of issuing the direction to restore and hand-over the actual physical possession of the suit land to them and during the pendency thereof, defendant No.1 and the other co-sharers entered into an agreement/deed on 25.08.2006 and thereafter, on 26.09.2012, they also arrived at a compromise to the effect that in the eventuality of the said Suit being decreed, all the co-sharers would transfer their respective $\frac{1}{2}$ shares in the suit land in favour of the plaintiff and thereby, the plaintiff would get $\frac{1}{2}$ share in the said total land. However, defendant No.1 did not abide by the said agreement as well as the compromise and rather, he sold the land measuring 05 Kanals 02 Marlas out of the suit land, to defendant No.2.

In his written-statement, defendant No.1 asserted that said Abdul Rajjak, i.e his father, had executed a Will dated 26.04.2012 and on the basis thereof, he became absolute owner of $\frac{1}{3}^{\text{rd}}$ share in the suit land and that the plaintiff, in collusion with the other co-sharers, fraudulently

prepared the assignment-deed/compromise-deed.

In its separate written statement, defendant No.2 has taken the plea of its being a *bona-fide* purchaser of the above-said land on payment of the sale consideration to defendant No.1.

The plaintiff preferred the application under Order 39 Rules 1 and 2 CPC for seeking temporary injunction to restrain the defendants from alienating the suit land in any manner and also from interfering in his cultivating possession over the same as well as from raising the construction over any specific portion thereof and changing its nature. The said application has been allowed by the trial Court vide the impugned order (Annexure P-4) while restraining defendant No.1 from further alienating or creating third-party interest in the land of his share measuring 05 Kanals 02 Marlas and restraining defendant No.2 also from alienating or creating third-party interest in the land measuring 03 Kanals 19 Marlas and restraining both the defendants from raising any construction over the suit land and changing its nature, till the final decision of the Civil Suit. Vide the impugned order (Annexure P-5), the appellate Court has dismissed the appeal preferred by defendant No.2 against the said order.

I have heard learned counsel for the petitioner-defendant No.2 in the instant revision petition and have also perused the record carefully.

Learned counsel for defendant No.2-Firm contends that the said defendant is a *bona-fide* purchaser of the land sold to it by defendant No.1 out of the land, as fallen to his share by virtue of the said Will

executed by his father Abdul Rajjak and it being so, defendant No.2 had every right to raise the construction over this land and to alienate the same in any manner it liked and therefore, both the impugned orders are not legally sustainable and hence, the same deserve to be set-aside.

However, the afore-raised contentions are devoid of any merit because the plaintiff claims ownership over $\frac{1}{2}$ share of the total land by virtue of the above-mentioned agreement/deed as well as the family settlement/compromise stated to have been arrived at between him and all other co-sharers in this land whereas defendant No.1 claims ownership over $\frac{1}{3}^{\text{rd}}$ share in the total land on the basis of the afore-said Will. The veracity and genuineness of the said documents can and shall be looked into and adjudicated upon by the trial Court at the relevant stage after appreciating and evaluating the evidence as may be led by both the parties on the record in support of their respective contentions qua the same, as put-forth in their pleadings and the same cannot be decided, at this stage. Rather, at the moment, the fact remains that in case, any of the defendants further alienates any part of the suit land or creates any third-party rights in the same, it would result in the multiplicity of the litigation. Further, there is nothing on the file to show that defendant no.2 had purchased any specific portion out of the total land or that the said land had ever been partitioned between the co-sharers by metes and bounds. It being so, the raising of construction in the same by any of the defendants would also lead to further legal intricacies in the matter.

As a sequel to the fore-going discussion, it follows that there

is no illegality, infirmity, irregularity or perversity in the impugned orders passed by both the Courts below, so as to call for any interference by this Court.

Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

March 25, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*