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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-6137-CII-2022 in/and
CR-1535-2022 (O&M)
Date of Decision:25.07.2022

Satyawan

.. Applicant/Petitioner

Vs.

Sunita

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Narender Pal Bhardwaj, Advocate
for applicant-petitioner.
Mr. Tarjit Singh Chhikara, Advocate
for the respondent/caveator.

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Manoj Bajaj, J. (Oral)

CRM-6137-CII-2022

Application is allowed, subject to all just exceptions.

Annexures P-15 and P-16 are taken on record.

CR-1535-2022 (O&M)

The petitioner (plaintiff) has challenged the order dated 02.02.2022 (Anneuxre P-1) passed by Addl. District Judge, Jind in Civil Misc. Appeal (RBT) No.2/2014, thereby affirming the order dated 26.05.2014 passed by Civil Judge (Jr. Divn.) Safidon in Civil Suit No.85/2014, whereby his application under Order XXXIX Rules 1 and 2 CPC, was dismissed.

Briefly, the facts of the case are that the plaintiff brought a suit for declaration and injunction against defendant by claiming himself to be owner in possession of suit property measuring 38 kanals, by way of inheritance from Lije Ram (grandfather) and further claimed that the sale

deed dated 29.09.2006 executed by them in favour of defendant be declared null and void. On 29.09.2006, plaintiff along with Rajinder s/o Ish Ram and Sarwan Kumar s/o Balwant were present in his fields i.e. suit land. In the meantime, Dalbir s/o Rajpal along with defendant (Sunita) and her husband Rajpal, along with three other persons came there in a vehicle and forcibly tried to take him away. When Rajinder and Sarwan objected, the aforesaid persons and defendant gave threats to kill them. As per pleadings, the plaintiff was forced to consume some tablets as well as alcohol at the farmhouse of Dalbir and later, they took the plaintiff to Sub Tehsil Pillukhera, where they forcibly got executed sale deed bearing No.1122 dated 29.09.2006 in favour of defendant for a total sale consideration of Rs.19 lacs, whereas in fact, no consideration was paid to the plaintiff. Even possession of the suit property was never taken by defendant from the plaintiff. On these broad averments and cause of action, the plaintiff filed the suit for declaration by challenging the sale deed as well as subsequent revenue enteries, being result of fraud, misrepresentation etc. and also prayed for decree of prohibitory injunction restraining her to interfere in the suit property.

Along with this suit, the petitioner also filed an application under Order XXXIX Rules 1 and 2 CPC read with section 151 CPC seeking ad interim injunction.

While contesting the suit, defendant filed reply to the application and claimed ownership pursuant to the sale deed and further pleaded that the instrument was executed by plaintiff with his own consent and against sale consideration. The claim of the plaintiff that the suit property is ancestral was also denied, as according to the defendant, the

holding of Lije Ram was inherited by Maman and through gift, the title was conferred upon Rissale and thereafter, it was inherited by legal heirs of Rissale in terms of Section 8 Hindu Succession Act, 1956. Denying the other averments made by the plaintiff, it was pleaded that the application be dismissed, as the defendant is co-sharer of the suit property.

The trial Court after considering the pleadings and material on record, dismissed the application vide order dated 26.05.2014 (Anneuxre P-2) and aggrieved against that, an appeal was preferred and the appellate Court also affirmed the said order through the impugned decision dated 02.02.2022 (Annexure P-1).

Learned counsel has argued that the alleged sale deed relied upon by the defendant to claim title in the suit property is the result of threat, coercion etc, therefore, no valid title was conferred upon her, particularly in the absence of the sale consideration. Mr. Bhardwaj, learned counsel has argued that after the sale deed, the possession continued to remain with the plaintiff and now, the defendant is bent upon to forcibly take possession of the suit property on the basis of the alleged sale deed. He submits that the defendant previously tried to disrupt the plaintiff's possession over the suit property, therefore, the proceedings under Section 145 Cr.P.C. were also initiated. According to learned counsel, the Courts without appreciating the facts in proper manner have declined plaintiff's application for ad interim injunction.

During the course of hearing, it is not disputed by learned counsel that the alleged sale deed was executed in the year 2006, whereas the suit has been filed by him in May, 2014. At this stage, he submits that

sale deed, but the said suit was dismissed vide judgment and decree dated 02.06.2012 holding the instrument to be correct and legal. The appeal against the said decision was also dismissed on 11.03.2014.

After hearing the learned counsel and considering the material on record, this Court finds that the Civil Judge (Jr. Divn.), Safidon has carefully examined the facts and circumstances of the case, particularly the other attending circumstances and tested the case of the plaintiff on relevant principles, which govern the grant or refusal of ad interim injunction. The perusal of the impugned order shows that the trial Court has rightly drawn a conclusion that no *prima facie* case is made out in favour of the plaintiff and the other factors i.e. balance of convenience and irreparable loss were found to be in favour of defendant. Similarly, the appellate Court has also examined the material on record carefully before upholding the said decision.

Thus, considering the above background of the case, this Court does not find any illegality and impropriety in the impugned orders, and, no interference by way of revisional jurisdiction is warranted.

The petition is dismissed.

25.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No