

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

CR No.1765 of 2022

Date of decision: 9th May, 2022

Palwinder Kaur

... Petitioner

Versus

Jasvir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepak Gupta, Advocate for the petitioner.

FATEH DEEP SINGH, J.

In the instant civil revision preferred by Palwinder Kaur against respondent Jasvir Singh there is a dispute over appointment of Receiver which stood declined by the Court below on its application under Order 40 Rule 1 CPC read with Section 151 CPC vide orders dated 04.01.2022 of the Court of learned Civil Judge (Junior Division), Bathinda.

The parties who are close relations are fighting over a suit for specific performance of an agreement to sell dated 31.07.2018 alleged to have been executed by Jasvir Singh defendant in favour of plaintiff Palwinder Kaur for paying ₹ 30,000 per month being share of income of their joint property known as Vivek Medical Hall, Bibiwala Chowk, Bathinda.

Upon hearing Mr. Deepak Gupta, Advocate for the petitioner and perusing the records of the case.

What is apparent that Palwinder Kaur happens to be sister-in-law of defendant Jasvir Singh being widow of defendant's brother Jagjit Singh. The family owns shop under the name and style of Vivek Medical Hall. It is during the course of a dispute the parties have entered into an agreement to sell dated 31.07.2018 and now apprehending that defendant might dispose off the goods lying in the shop, has preferred an application under Order 40 Rule 1 CPC read with Section 151 CPC for appointment of Receiver which stood declined by the Court below.

Under Order 40 Rule 1 CPC, the Court where it appears to be just and convenient, may by order appoint a receiver of any property before or after a decree, remove any person from the possession or custody of the property, commit the same to the possession, custody or management of the receiver, and confer upon the receiver all such powers as to bringing and defending suits and for the realization, management, protection, preservation and improvement of the property, the collection of rents and profits thereof. The mere interpretation of these provisions does not confer upon the courts arbitrary powers to pass an order for appointment of a receiver on any account against the equity. It needs to be kept in mind that admittedly both the parties are owners and deemed to be in possession of the property subject matter of dispute. So by that analogy the Court cannot come in the way of enjoyment of that property by one of the co-owners which would otherwise be there during the tenure of receivership and has been rightly termed to be harsh

and unjust. What one can make out from the dispute is the due implementation of the agreement of settlement dated 31.07.2018 which the defendant is trying to run out of it. Since the parties are disputing over the movable articles comprising of medicines in the medicine shop, it would certainly as has been held by the Court below, affect the very business and interest of the parties to this suit and property might be wasted by mischief. Since the business is a running business and it would not be in the interest of the two sides to appoint a receiver and thus, bring about more hardship and deprive the parties to the peaceful enjoyment of the property and earnings being derived out of it. It would be more appropriate for the plaintiff to have sought if so necessitated, a suit for rendition of accounts of the shop or such like remedy which could not have adversely impacted the business which is common to both of them. The Court below had rightly refused to allow the relief for appointment of receiver keeping in view the interest of both the sides. This Court does not find any merit in the present revision petition and the same stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

May 9, 2022

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No