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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1903-2022 (O&M)

Date of Decision:04.08.2022

Vijay Kumar Uppal

.. Petitioner

Vs.

Ashok Kumar Uppal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. A.S. Walia, Advocate for the petitioner.

...

Manoj Bajaj, J.

Petitioner (defendant) is aggrieved against the order dated 30.11.2021 passed by Civil Judge (Jr. Divn.), Karnal (Annexure P-6), whereby his application under Order VII Rule 11 CPC for rejection of plaint, was dismissed.

Brief facts of the case are that plaintiff-Ashok Uppal filed a suit for declaration with consequential relief of permanent injunction against defendant Nos.1 to 4, who are his brother and sisters, respectively and claimed his share in suit property House No.734, Sector-13, Urban Estate, Karnal, which was allotted to the mother of the parties, namely, Prakash Rani w/o Rattan Lal Uppal by defendant No.5 (Haryana Urban Development Authority, Karnal) on 20.02.1974. The original allottee during her lifetime transferred the said plot in favour of her husband Rattan Lal Uppal and plaintiff-Ashok Kumar Uppal and by virtue of re-allotment letter dated 06.09.2006, the plaintiff became owner in possession of the plot in question to the extent of half share.

Later, Rattan Lal Uppal died on 25.01.2017 and after his death,

defendant No.1, namely, Vijay Kumar Uppal filed a suit bearing No.167 dated 18.07.2017 against the mother and defendants No.2 to 4 alleging that when Prakash Rani transferred the property in favour of Rattan Lal Uppal and Ashok Kumar Uppal, he was abroad and the half share in the name of his father actually belongs to him and the said suit was decided in his favour on 09.09.2017 before the Lok Adalat on the basis of a compromise. As per averments in this suit, neither Ashok Kumar Uppal was a party in the earlier suit nor the defendant No.2-Shashi being illiterate, deaf and dumb was able to understand her good and bad, therefore, prayed that the decree dated 09.07.2017 be declared null and void.

Upon notice, the defendants appeared and filed an application under Order VII Rule 11 CPC for rejection of the plaint on the ground that the award by the Lok Adalat is final and binding, therefore, the same cannot be challenged by way of civil suit, as the petitioner could file the writ petition to challenge the said award/decreed.

The said application was contested by the plaintiff (respondent) by filing reply and the trial Court vide impugned order dated 30.11.2021 proceeded to dismiss his application.

Learned counsel has argued that the previous suit filed by the petitioner against his mother and sisters was decided on the basis of compromise, therefore, the present suit filed by plaintiff-Ashok Kumar Uppal is not maintainable and the said award has attained finality and the plaint filed by the plaintiff deserves to be rejected. He submits that the trial Court has failed to appreciate the facts and circumstances of the case, and it has resulted in miscarriage of justice to the petitioner, therefore, interference by this Court is called for.

After hearing the learned counsel and considering the material on record, this Court finds that the plaint contains the specific averments regarding alleged fraud played upon by defendant No.1 (petitioner), as one of the grounds to challenge the compromise decree, therefore, it cannot be said that the suit filed by the plaintiff is without any cause of action. During the course of hearing, it is not disputed by learned counsel that in the previous suit, plaintiff-Ashok Kumar Uppal was not a party. Further, upon examining the impugned order, this Court finds that the trial Court has carefully examined the pleadings of the parties, particularly the background of the previous suit while dismissing the application under Order VII Rule 11 CPC, thus, the impugned order does not suffer from any illegality and impropriety.

Dismissed.

04.08.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No