

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

124

CR-1853-2022

Decided on : 12.05.2022

Ashok Kumar

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Pankaj Bali, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner has preferred the instant revision petition under Article 227 of the Constitution of India, to set aside the impugned order dated 07.03.2022 (annexed as Annexure P-7), vide which an application filed under Order 1 Rule 10 CPC, by respondents No.3 to 16, for being impleaded as respondents No.3 to 16 in the appeal pending before the learned Additional District Judge, Karnala, against the order dated 14.02.2022, passed by the learned Civil Judge (Sr. Divn.), Karnal, in a Civil Suit for permanent injunction, was dismissed.

It would be relevant to give in brief, the case as pleaded by the plaintiff (petitioner herein) in the civil suit, is as follows:-

The plaintiff filed a suit for permanent injunction on the ground that he was owner in possession to the extent of 1/6th share in the suit land situated within the revenue estate of Village Pundri, Tehsil Gharaunda, District Karnal. A civil suit titled as 'Ram Niwas Vs. Ashok Kumar and others' for possession by way of specific performance of agreement to sell

dated 07th June, 2019, of the suit land was pending in the Court of learned Civil Judge (Sr. Divn.), Karnal, in which interim injunction against alienation had been passed vide order dated 21.12.2019. An agreement was made for a sale consideration in the sum of Rs. 60.00 lakhs and the plaintiff had received a sum of Rs. 10.50 lakhs as earnest money from Ram Niwas, whereas, the balance consideration was to be received by the plaintiff at the time of execution and registration of the agreement to sell, which was fixed for 07th May, 2020. However, sometime in the second week of June, 2019, applicants-Sanjeev Jain and others (respondents No.3 to 16 herein), expressed their willingness to purchase the suit land, since they were in the process of purchasing some land in the vicinity. The respondents after negotiating with the petitioner/plaintiff agreed that they would return Rs.21.00 lakhs i.e. double the amount of earnest money received by the petitioner/plaintiff from Ram Niwas. The respondents No.3 to 16 also offered to pay Rs. 41 lakhs to the petitioner/plaintiff, besides, agreeing to record one residential plot measuring 2-Kanal situated in Village Pundri in the petitioner's/plaintiff's name. It was also agreed that agricultural land measuring 24K-0M along with tube-well and electricity connection situated in the Village Pundri, would be recorded in favour of the petitioner/plaintiff. On 12.06.2019, the petitioner/plaintiff executed two registered sale-deeds bearing Nos. 788 & 790 in favour of respondents No.3 to 16, who gave four cheques amounting to Rs. 12,29,680/- to the petitioner/plaintiff. A sale-deed *qua* the transfer of 24K-0M of land was also typed by the respondents on 12.06.2019 in favour of the petitioner/plaintiff. However, the said sale-deed could not be registered due to the non-availability of the actual owner i.e. Neeraj Kumar. As a result of which, the respondents failed to perform

their part of agreement. The respondents also failed to perform their part of agreement of residential house and land in lieu of 09K-0M land to the petitioner. The five sale-deeds executed by the petitioner/plaintiff in favour of the defendants/respondents No.3 to 16, were not cancelled, as a result of which, on 27th February, 2020, the petitioner/plaintiff approached the Superintendent of Police, Karnal, by way of a written complaint that the respondents were trying to forcibly dispossess him from the suit land. However, since the respondents were influential persons, it was alleged that an FIR was registered on 11.03.2020 against the petitioner/plaintiff and his wife instead.

During the pendency of the FIR, an application was moved by the respondents to the Collector, Karnal (respondent No.1 herein), alleging that the petitioner/plaintiff and his family were in unauthorized possession of the suit land. Allegedly, a sham inquiry was conducted by the collector, Karnal without associating the petitioner/plaintiff, who was in judicial custody at the relevant time. On 23rd September, 2021, the petitioner/plaintiff was called by Tehsildar, Gharaunda and he was asked to vacate the suit property else possession of the same would be taken with police help. The petitioner/plaintiff filed CWP No. 19506 of 2021, before this Court, wherein, while issuing notice of motion this Court stayed the dispossession of the petitioner/plaintiff and also directed the District Revenue officer, defendant No.2 (respondent No.2 herein), to pass a fresh order after giving an opportunity of hearing to the petitioner/plaintiff. Even though the petitioner appeared before respondent No.2 – DRO, Karnal, as per the directions of this Court, however, a fresh order was passed on 28.01.2022 against the petitioner and he was directed to vacate the suit

property.

Aggrieved by the aforementioned order of DRO, Karnal (defendant/respondent No.2), the petitioner/plaintiff filed a suit for injunction against the Collector and DRO, Karnal, from dispossessing him from the suit property.

Respondents No.1 & 2 were put to notice in the said civil suit. On 04.02.2020, respondents No.3 to 16 moved an application under Order 1 Rule 10 CPC, for being implicated in the suit. It was argued by respondents No.3 to 16 that they were owners in possession on the basis of registered sale-deeds and thus had a right to be heard during hearing of the appeal, since their rights were under adjudication.

Learned counsel for the petitioner/plaintiff *inter alia* contends that the learned Appellate Court gravely erred in allowing the application under Order 1 Rule 10 CPC without appreciating that petitioner was seeking relief only against respondent No.1 and 2 i.e. the Collector and DRO, Karnal, respectively, and no relief had been sought for against respondents No.3 to 16 by the petitioner/plaintiff. It was submitted that since the petitioner/plaintiff is the master of the suit, he alone could decide as to against which party, he wanted to seek relief.

I have heard learned counsel for the petitioner and perused the relevant material placed on record including the impugned order.

This Court does not find any merit in the submissions made by the learned counsel for the petitioner. Admittedly, sale-deeds were executed and registered by the petitioner in favour of respondents No.3 to 16, pertaining to the suit property. The dispute between the petitioner and the private respondents is *qua* the deliverance of the possession of the suit land.

Hence, outcome of the appeal against dismissal of application under Order 39 Rules 1 & 2 CPC would have a bearing on the rights of the private respondents. In the circumstances, respondents No.3 to 16 do have a legitimate right to be heard for a just decision of the appeal. Consequently, finding no merit in the present revision petition, same is hereby dismissed.

(MANJARI NEHRU KAUL)
JUDGE

May 12, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*