

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CR-1343-2019 (O&M)
Date of Decision: 19.01.2023

Neena	Versus	Petitioner
Sanwaria Girdhari Vats		Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mrs. Sonia G. Singh, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the concurrent judgments dated 16.02.2015 and 25.09.2018 passed by learned Additional Civil Judge (Senior Division), Assandh and learned Additional District Judge, Karnal respectively, whereby the petition under Order 39 Rule 2A CPC filed by respondent/plaintiff was allowed; petitioner/defendant was held guilty for committing contempt of Court and was directed to undergo one month civil imprisonment.

2. Brief facts first, as pleaded in the revision petition.

2.1. Respondent/plaintiff filed a suit for declaration and permanent injunction with the averments that land measuring 3 acres 7 Kanals situated at Village Moonak was purchased vide three different sale deeds dated 17.08.2000, 02.05.2002 and 19.01.2016 by the plaintiff from joint family funds in favour of his wife i.e., present petitioner. However, the said land was neither purchased nor intended to be purchased for the benefit of petitioner/defendant. It was further submitted that entire sale consideration was paid by plaintiff out of income of joint family. It was further averred that on 25.02.2007, the present petitioner left the matrimonial house and even one complaint was filed before Crime Against Women Cell by the present petitioner against her in-laws i.e., plaintiff and his

family members. It was further submitted that the petitioner/defendant has been trying to sell the above said land. With the said averments, the civil suit was filed by the present respondent.

2.2. During pendency of civil suit, order dated 04.02.2010 (Annexure P-1) was passed by Learned Additional Civil Judge (Junior Division), Assandh on the application under Order 39 Rule 1 & 2 and it was observed that the injunction application moved on behalf of the plaintiff being devoid of merits stands disposed of as such. However, defendant was directed that in case of alienation of suit land, she shall disclose the pendency of the suit to the purchaser and factum of pendency of the present suit shall also be got mentioned in the document of alienation, if any.

2.3. Thereafter, an application dated 24.04.2010, was filed by the respondent/plaintiff under Order 39 Rule 2A CPC for initiating contempt proceedings on the ground that the present petitioner executed sale deed dated 08.04.2010 in favour of one Smt. Ruby Rani wife of Rajesh, however, factum of pendency of civil suit, as directed in order dated 04.02.2010, has not been mentioned. Thus, said order has been violated.

2.4. The present petitioner filed specific reply that the factum of civil suit was disclosed to the purchaser to make an endorsement regarding the pendency of civil suit and the sale deed was got drafted by the purchaser. However, the draft was never read over to the petitioner. It was further submitted that the mistake was not intentional, rather was on account of negligence on the part of the purchaser and petitioner is still ready to make said endorsement in the sale deed. The said purchaser i.e. Ruby, who was arrayed as defendant No.2 had also filed her written statement admitting the factum that it was verbally informed by the present petitioner to her about the pendency of litigation and the same was also conveyed

to the document writer, but inadvertently, the same could not be mentioned in the sale deed. But the learned Additional Civil Judge, (Senior Division), Assandh vide *ex parte* impugned judgment dated 16.02.2015 has allowed the petition under Order 39 Rule 2A CPC, has held the present petitioner guilty of committing the contempt of court and further directed to undergo one month civil imprisonment. The appeal filed by the petitioner against the judgment dated 16.02.2015 has also been dismissed by Learned Additional District Judge, Karnal vide judgment dated 25.09.2018.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. It transpires that during pendency of proceedings, not only the respondent (plaintiff in suit) has expired, even otherwise, the LRs have chosen not to pursue the said proceedings. It so happened that before the plaintiff died even his suit was dismissed vide judgment and decree dated 30.03.2016 (Annexure P-4). No appeal was preferred by the respondent-plaintiff or his LRs after his demise. The judgment and decree have thus attained finality. Present revision petition arises out of judgment passed in a petition filed under Order 39 Rule 2A CPC for non-compliance of interim order dated 04.02.2010 (Annexure P-1).

5. Without expressing any opinion on the merits of the judgments, impugned herein, in view of the death of the plaintiff and also dismissal of the suit itself, taking a lenient view, impugned judgments are modified to the extent that corrective measures, which were required to be taken, shall be taken within a period of 30 days. In view of conduct of petitioner, coupled with the fact that the disclosure of the pendency of the suit proceedings in the sale deed is rendered

otiose in view of dismissal of the suit itself, the impugned order passed by the Court below is rendered infructuous.

6. Being so, the interim order dated 26.02.2019 passed by this Court in the revision petition, whereby operation of the impugned order was stayed, is made absolute and the revision petition is disposed of as such.

7. Pending civil miscellaneous applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 19, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No