

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

247

CR-5941-2018 (O&M)
Date of decision: 20.02.2023

Veena Ahluwalia

...Petitioners

Versus

Santosh Ahluwalia and others

...Respondents

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

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

Mr. V. B. Aggarwal, Advocate
for respondent No. 1.

Service upon respondents No.2 and 3 dispensed with
vide order dated 11.03.2022.

ARUN MONGA, J. (Oral)

Instant petition has been filed under Article 227 of the Constitution of India with a prayer for setting aside/modify the impugned order dated 10.04.2018 passed by learned Additional District Judge, Kurukshetra in Civil Appeal No. 30 of 2017, whereby learned Court modified order dated 06.05.2017 (Annexure P-1) passed on the application of the petitioner/ plaintiff in the suit under Order 39 Rules 1 and 2 read with Section 151 CPC.

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

2.1. Petitioner/plaintiff filed a suit against respondents for declaration to the effect that she is owner of House No.895, Sector 13, HBC, Kurukshetra with consequential relief of permanent injunction. She is widowed daughter-in-law of respondent No.1. Her husband died on 20.01.2010. All the respondents are residing and settled in Canada for the past many years. Father-in-law of petitioner, namely, Bahadur Singh Ahluwalia had also expired while he was in Canada on 20.01.2014. The suit property, which is a Housing Board

House in Kurukshetra, was given to plaintiff/ petitioner by way of an oral family settlement and petitioner is residing in the said house along with her children. In the year-2011, respondent No.1 along with Bahadur Singh (in-laws of petitioner) shifted to Canada whereas the other sons of respondent No.1 i.e. respondents No.2 and 3 had already settled in Canada.

2.2. Since the entire family is settled in Canada, another Housing Board house No.998, Sector 13, HBC, Kurukshetra was also given to petitioner which is rented out and rent was to be collected by her for source of livelihood.

2.3. There was a continuous threat to petitioner of her dispossession and interference in House No.985, HBC, Sector 13, Kurukshetra at the hands of respondent No.1, who under the influence of pro forma respondents No.2 and 3 wanted to dispossess the petitioner from the property in dispute.

2.4. Respondent No.1 filed written statement controverting the averments contained in the plaint and submitted that property in dispute is owned by her and she is the absolute owner as it was allotted to her. Petitioner along with other family members were allowed to live in the said house on the first floor out of sympathy and close blood relation. While she was in Canada, son of petitioner, namely, Sourabh broke open the lock of ground floor house and had stolen valuables including cheques etc. FIR was registered and he was convicted. She had also filed an application under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 from Canada before Deputy Commissioner, Kurukshetra.

2.5. Along with the suit, petitioner also moved an application under Order 39 Rules 1 and 2 read with Section 151 CPC which was allowed by the learned Trial Court vide order dated 06.05.2017 (Annexure P-1).

2.6. Feeling aggrieved, respondent No.1 through her special power of attorney, Bikram Singh filed first appeal, which was partly allowed vide the

impugned order dated 10.04.2018, with the observations that true owner should dispossess the trespasser by taking recourse to remedies under law.

3. Heard.

4. It transpires that proceedings before learned trial Court are at the fag end and plaintiff has already concluded her entire evidence while defence evidence is midstream. Defendants in main suit have already availed 10 opportunities and are also in the process of completion of their evidence. Thereafter, the matter is to be simply argued for pronouncement of final order.

5. That apart, certain proceedings are also being initiated by respondent No. 1-widow (mother-in-law) under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 claiming herself to be the exclusive owner of the property and for ousting plaintiff from the said premises. In both the cases i.e., Civil Suit Case No. 24 of 2017 as well as in the Senior Citizen Case, it would be necessary to determine the title *qua* the suit property as it is only thereafter that the respective claims of the parties can be adjudicated.

6. Being so, in order to balance the equities at this stage, it is appropriate that status quo *qua* possession as well as alienation of the property in question be maintained during the pendency of the trial.

7. Accordingly, the instant revision petition is accepted in the above terms and the impugned order passed by the learned First Appellate Court is modified to that extent.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

20.02.2023
Harish Kumar

Whether speaking/reasoned : Yes/ No
Whether Reportable : Yes/ No