

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

CR-7443-2015(O&M)

Date of decision:-16.2.2023

G.K.Electrical through its Proprietor Amey Kumar Goel and another

...Petitioners

Versus

Sudesh Kumari and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vineet Chaudhary, Advocate
for the petitioners.

Mr.Chirag Kundu, Advocate
for respondents No.1 and 2.

Mr.Gaurav Sethi, Advocate
for respondent No.3.

H.S. MADAAN, J.

1. Under challenge in this revision petition is order dated 8.9.2015 passed by Civil Judge(Jr.Divn.), Ambala in Execution Petition No.69 dated 12.3.2012 titled 'Sudesh Kumari and another Versus Satpal and others' vide which an application filed by revision petitioners/JDs for demarcation of land bearing Khasra No.1062/1 situated in Patti Mehar, Tehsil and District Ambala through Tehsildar, Ambala or any other revenue official had been dismissed.

2. Briefly stated, facts of the case are that plaintiffs Sudesh Kumari and Gaman Lal had brought a suit against defendants Satpal, Anil Kumar, G.K. Electrical through its Proprietor Amey Kumar Goel as well as Amarjit Singh, seeking a declaration that sale deed No.4255/1 dated

5.12.2000 executed by defendants No.1 and 2 as general power of attorney of the plaintiffs in favour of defendants No.3 and 4 are null, void and inoperative, ineffective qua the rights of the plaintiffs and other legal heirs of Harmohinder Lal qua the land measuring 5 ½ x 76' fully described in head note of the plaint and shown in blue colour in the site plan attached with the plaint being part of khasra No.1066//1/2 and also depicted in orange colour in the site plan being part of khasra No.1062//1.

3. In that suit, the plaintiffs further sought relief of permanent injunction restraining the defendants No.3 and 4 from alienating or raising any sort of construction therein besides craving for relief of possession of the site shown in blue and orange colour. Such property being located at Patti Mehar, H.B. No.58, Old Hissar Road, Ambala city.

As per the version of the plaintiffs, they had purchased the property measuring 0 kanal 7 marlas being 7/69 shares of khasra No.1066//1/2 situated at Patti Mehar, H.B. No.58, Old Hissar Road, Ambala City vide sale deed dated 5.3.1997, fully detailed in the site plan attached therewith; the dimensions of such land happened to be 25 ½ x 76'; the plaintiffs along with other LRs of Harmohinder Lal had inherited 0 kanal 15 marlas of land and mutation No.5221 dated 30.9.2000 was sanctioned in their favour; the plaintiff No.2 Gaman Lal was owner of land measuring 1 kanal 1 marla bearing khasra No.1063/1 situated at Patti Mehar, Ambala City; the plaintiffs along with other LRs of Harmohinder Lal had executed a registered general power of attorney in favour of defendants No.1 and 2 regarding 7/69 share(0-7) of khasra No.1066//1/2 of plaintiff No.1, 1 kanal 1 marla bearing khasra No.1063/1 of plaintiff

NO.2; furthermore the plaintiffs along with other LRs vide said general power of attorney had appointed defendants No.1 and 2 for land measuring 0 kanal 15 marlas situated at Patti Mehar, Ambala City, defendants No.1 and 2 by misusing the general power of attorney aforesaid and making misrepresentations executed the impugned sale deed No.4255/1 dated 5.12.2000 for the land regarding which they were not authorised and wrongly mentioned the area of khasra No.1066//1/2 min(0-1) marla of the plaintiff No.1 and of khasra No.1063 min(0-1) marla of the plaintiff No.2; on coming to know about this the plaintiffs contacted the defendants asking them to concede their claim but to no effect. As such, the plaintiffs had filed the suit.

3. On getting notice of the suit, only defendants No.1 and 2 put in appearance and contested the suit, whereas defendants No.3 and 4 did not appear despite service, as such they were proceeded against ex-parte.

4. Issues on merits were framed. The parties were given opportunities to lead evidence in support of their respective claims.

5. After hearing arguments, the trial Court decreed the suit of the plaintiffs with costs vide judgment and decree dated 4.9.2010. In para No.24 of the judgment, the trial Court has concluded that from the oral and documentary evidence, it is clear that defendants No.1 and 2 were authorized to sell 0 kanal 7 marlas of land bearing khasra No.1066//1/2 measuring 25.6 ft. x 67 ft. and one marla of khasra No.1063 but they have wrongly and illegally sold land measuring 31ft. X 67 ft of khasra No.1066//1/2 and 1062/1, whereas they were never authorized to sell any part of khasra No.1062/1 or make alienation of more than 25.6 ft. x 67 ft.

of khasra No.1066//1/2, therefore the impugned sale deed dated 5.12.2000 Ex.P5 executed by defendants No.1 and 2 in favour of defendants No.3 and 4 was declared to be null and void and not binding upon rights of the plaintiffs and other legal heirs of Harminder Singh qua land measuring 5 ½' ft. x 76 ft. shown in blue colour in the site plan Ex.PW4/B and also shown in orange colour in said site plan being part of khasra No.1062/1 and in terms of the judgment and decree passed the sale deed was set aside to that extent and defendants No.3 and 4 were restrained from alienating or raising any sort of construction in the suit land and were directed to hand over the vacant possession of the suit land to the plaintiff within two months.

6. Feeling aggrieved by the said judgment and decree, defendants No.3 and 4 had preferred an appeal before District Judge, Ambala, which was assigned to Additional District Judge, Ambala, who vide judgment and decree dated 11.9.2013 affirmed the judgment and decree passed by the trial Court and in the process the appeal was dismissed.

7. Still feeling dissatisfied, the said defendants had knocked at the door of this Court by way of filing regular second appeal, which too was dismissed vide judgment and decree dated 23.7.2015.

8. Thereafter, the plaintiffs/decreed-holders filed an execution application before the trial Court, notice of which was given to JDs/defendants, who put in appearance. During the course of proceedings, they filed an application for demarcation of land bearing Khasra No.1062/1 situated in Patti Mehar, Tehsil and District Ambala through

Tehsildar, Ambala or any other revenue official and to report regarding the existing position on the spot.

9. That application was resisted by the decree-holders/plaintiffs and vide the impugned order that application was dismissed, leaving the Jds/defendants aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was issued to the respondents/plaintiffs and respondents No.1 to 3 have put in appearance through counsel.

10. I have heard learned counsel for the parties besides going through the record.

11. On scrutinizing the impugned order minutely, I do not find any illegality or infirmity therein. Rather the order is quite detailed, well reasoned without there being any element of arbitrariness or perversity. The Executing Court has observed that the relief clause of the judgment passed by the trial Court mentions the description of land, possession of which is being sought by the decree-holders/plaintiffs by way of execution and there is no necessity of appointment of any revenue official for the purpose of demarcation of land. I do not find any reason to disagree with the Executing Court in that regard.

12. It is pertinent to note that plaintiffs had filed the civil suit in the year 2001, which took more than 9 years for decision in the trial Court; when the defendants had filed appeal before District Judge at Ambala in the year 2011, it was decided after almost two years; when the case came up before this Court in RSA in the year 2013, it was decided after about 2 years in the year 2015, in that way, the judgment and decree

passed by the trial Court had attained finality. Such judgment and decree passed way back on 4.9.2010 is yet to be executed. A period of 12 years has elapsed therefrom. The revision petitioners, who are JDs have successfully stalled the execution of the decree so far.

13. No fault can be found with the impugned order. The order passed is quite detailed and well reasoned and it does not suffer from any illegality or infirmity. No reason is there to interfere with it by exercising revisional jurisdiction.

14. Finding no merit in the revision petition, the same stands dismissed.

The interim order dated 5.11.2015 stands vacated.

The Executing Court is directed to take necessary measures for expeditious completion of the execution proceedings.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

16.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No