

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

103

CWP-4708-2020 (O&M).

Date of Decision: 19.07.2023.

VIJAY AND OTHERS

.. Petitioners

Versus

COMMISSIONER-CUM-REGISTRAR, BHIWANI AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rakesh Nehra, Sr. Advocate, with
Mr. Sauhard Singh, Advocate and
Mr. Ankit Yadav, Advocate, for the petitioners.

Mr. Vivek Saini, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 25.09.2018 (Annexure P-4) passed by the Commissioner-cum-Registrar, Bhiwani, whereby the appeal preferred by the petitioner against the order dated 19.03.2018 (Annexure P-2) passed by the Sub Registrar has been declined and they have refused to register the sale deed dated 29.06.2017 presented on 19.03.2018 by the petitioners with regard to share of land measuring 2 kanals 1 marla comprised in Khewat No.782, Khasra No.224//6/ 3, 7, 14, 15, 16/1, 17 Kitte 6 total land measuring 38 Kanals 7 Marlas.

Learned Senior Counsel appearing on behalf of the petitioners

has argued that the respondents have refused to register the sale deed

executed in favour of the petitioners on the ground that there is a civil suit which is pending and an application for modification has already been filed by the Municipal Authorities. He submits that the said civil suit has no concern with the land in question or title of his vendors.

A status report was sought from the respondent-Authorities qua the land whereupon an affidavit by the Deputy Commissioner-cum-Registrar Bhiwani, has been filed along with the site plan and the demarcation report. As per the above, the *Aks Shajra* as per revenue record pertaining to Khasra No.413, village Bhiwani Lohar, shows a total area of 118 kanals - 14 marlas in the possession of the Municipal Council whereas the area under private ownership is to the extent of 48 kanals – 11 marlas.

Counsel appearing on behalf of the State fairly submits that the impugned orders passed by the Sub Registrar as well as the Commissioner-cum-Registrar may kindly be set aside and the Sub-Registrar may be directed to re-examine the entire issue in view of the affidavit that has been filed wherein private ownership and possession of land is not being disputed and does not prima facie show how civil suit has a bearing on the right of the vendors of the petitioners. . He, however, contends that the land being joint, actual physical possession with respect to the area in occupation and possession of the Municipal Council cannot be claimed or nature of holding changed.

Be that as it may, the same is a separate matter where inter se rights of possession may be protected by the respective parties and possession may be sought and enforced or protected in accordance with law. The same would not ordinarily stand in the way of the execution of the sale deed in-case title of the vendor is not in dispute.

The present petition is accordingly allowed. The order dated 25.09.2018 (Annexure P-4) passed by the Commissioner-cum-Registrar, Bhiwani, as well as the order dated 19.03.2018 (Annexure P-2) passed by the Sub-Registrar, Bhiwani, are set aside. The parties may, if so advised, appear before the Sub Registrar on 21.08.2023 whereupon the Sub Registrar shall take a fresh decision with respect to the sale deed that may be presented by the petitioners for registration in their favour, in accordance with law.

July 19, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No