

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

106

2023:PHHC:105206-DB

CWP-4621-2023

Date of Decision: 16.08.2023

Lalita Prashar

.....Petitioner(s)

Versus

State of U.T., Chandigarh and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Vinod Kumar, Advocate,
for the petitioner.

Mr. Prateek Rathee, Advocate,
with Mr. Aditya Jain, Advocate,
for U.T., Chandigarh.

G.S.SANDHAWALIA, J. (Oral)

1. Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the condition put in the transfer of lease hold rights of Booth No.75, Sector 19-C, Chandigarh to the extent of 100% share on the basis of an unregistered Will vide letter dated 30.12.2022 (Annexure P-6).

2. Counsel for the petitioner has submitted that the 100% share was transferred from Smt. Savitri Devi i.e. the mother-in-law as such and the transfer has been wrongly subject to the decision and outcome of the civil suit titled as Amarjeet Arora vs. Sudhir Prashar @ Pinka Prashar pending before the District Court, Chandigarh. It is vehemently argued that the petitioner is not a party to the civil litigation and, therefore, the condition which has been put is without any basis.

3. On 19.04.2023, the following order was passed:-

adjournment to inform the Court as to whether the civil suit which has been preferred by one Amarjeet Arora against the husband of the petitioner i.e. Mr. Pinka Prashar, relates to the booth which is the subject matter of the present writ petition or not, as the counsel for the respondents has made a positive statement to this effect. Hearing of the case is deferred to 08.05.2023.”

4. Today, counsel for the petitioner has produced copy of the plaint whereby Amarjeet Arora filed a suit for permanent injunction restraining Sudhir Prashar @ Pinka Prashar, the husband of the petitioner as such from alienating the booth in question. The alternate prayer is for issuance of suit for mandatory injunction directing the Estate Officer for not transferring, alienating, mortgaging or creating any lien over the property in question.

5. We have gone through the suit also, which would go on to show that a suit for recovery was decreed against the husband of the plaintiff on 05.04.2017 to the tune of Rs.12,74,000/- alongwith interest @ 9% p.a. from the date of filing of the suit and future interest @ 6%. Though the petitioner may not be a defendant as such in the said suit but the fact remains that the Estate Office is arrayed as defendant No.2 and the principle of *lis pendence*, thus, would apply against the said respondent who has only incorporated the said condition or clause in the transfer letter for the purposes of maintaining the factual position.

6. Keeping in view the above, we are of the considered opinion that the action of the Estate Officer is only recording a fact of pendency of a civil litigation so that it depicts to the subsequent purchaser, if any, that the litigation is pending.

7. Resultantly, we do not find any ground as such to interfere in the action of the respondents and the writ petition is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

16.08.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No