

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

CR-1930-2020(O&M)

Date of decision:-14.3.2023

Dhanwanti

...Petitioner

Versus

Lalita and others

...Respondents

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

Present: Mr.Deepak Goyal, Advocate for
Mr.Mukesh Yadav, Advocate
for the petitioner.

Mr.S.K. Yadav, Advocate
for respondents No.1, 2 and 5.

Mr.H.N. Sahu, Advocate
for respondent No.3.

H.S. MADAAN, J.

1. In a suit for declaration and permanent injunction filed by plaintiff Krishan Kumar against defendants Lalita and others, which is pending in the Court of Civil Judge (Jr.Divn.), Narnaul, Smt.Dhanwanti wife of plaintiff Krishan Kumar had filed an application for her appointment as next friend of the plaintiff for the reason that the plaintiff is suffering from mental illness since the year 2015 and for that reason is unable to understand the effect of his act and conduct; he is fully dependent upon her and despite treatment there has not been any improvement in mental health of the plaintiff; even PGIMS, Rohtak has issued a certificate in that regard declaring the plaintiff to be disabled to

the extent of 65%.

2. The application was opposed by the defendants contending that the plaintiff has capacity to understand what is good or bad for him and is not depending upon his wife, the applicant.

3. After hearing arguments, the trial Court of Civil Judge(Jr.Divn.), Narnaul vide the impugned order had dismissed the application taking into view various facts, which are as under:

(i) that the suit was filed on 24.4.2019 and injunction application was dismissed on 14.5.2019, which order was challenged by the plaintiff by way of filing appeal on 29.5.2019, which is still pending;

(ii) that after execution of sale deed dated 8.3.2019 in favour of the defendant, the plaintiff had executed another sale deed in favour of Smt.Ramesh Devi wife of Sh.Ved Parkash on 22.3.2019, the plaintiff had received the sale consideration in cash and through cheques;

(iii) that before execution of sale deed dated 8.3.2019, the plaintiff had entered into an agreement to sell dated 19.11.2018 and got it registered;

(iv) that the disability certificate was issued on 29.8.2019 showing moderate disability equivalent to 65% and treatment of the plaintiff from PGIMS, Rohtak started on 29.3.2019 showing that the medical treatment of the plaintiff started only after execution of both the sale deeds dated 8.3.2019 and 22.3.2019; and

(v) that the plaintiff has been declared as moderately disabled only and

not mentally retarded and he has been diagnosed with psychosis; it shows that he can understand his act and conduct. If the plaintiff was mentally ill as claimed by the applicant then suit should be filed by the applicant as next friend, in that way the application was found to be an afterthought of the applicant to get the sale deed dated 8.3.2019 as null and void.

4. Such order left the applicant aggrieved and she has approached this Court by way of filing the present revision petition, notice of which was issued to the respondents No.1 to 7 and respondents No.1, 2, 3 and 5 have put in appearance through counsel.

5. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

6. The reasoning given by the trial Court is plausible and convincing. The plaintiff himself filing the suit and then filing appeal against order dismissing his injunction application, executing the sale deeds receiving consideration amount, appearing before the Sub Registrar to get the sale deeds registered, can certainly be not taken to be suffering from unsoundness of mind or unable to understand what was good or bad for him. The application filed by the wife of the plaintiff was rightly rejected by the trial Court.

7. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and

circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

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

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

14.3.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No