

2023:PHHC:052402

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2196-2023

Date of Decision :17.04.2023

Debashis Goswami

..Petitioner

Versus

Monidipa Goswami and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashish Grover, Advocate for the petitioner.

* * *

Harsimran Singh Sethi, J. (Oral)

Present civil revision petition has been filed challenging the order dated 13.03.2023 passed by the Additional Civil Judge (Senior Division), Bathinda by which, the petitioner-defendant has been directed to produce the evidence in respect of issue No.1 so that claim of the respondents-plaintiffs for possession of the property in question, which is concededly in her name, could be decided.

Learned counsel for the petitioner-defendant submits that the issue with regard to the maintainability of the suit for possession is yet to be decided and onus to prove the said issue has been put upon the petitioner-defendant.

On being asked, learned counsel for the petitioner conceded that in case objection qua maintainability of the suit for possession is being raised by the petitioner-defendant, the said issue has to be proved by the petitioner-defendant only and not by the respondents-plaintiffs.

Further, in respect of the issue with regard to the payment of

the property in question, which is alleged to have been made by the petitioner/defendant, the same is also required to be proved by the petitioner/defendant especially, when concededly property in question is registered in the name of the respondents-plaintiffs even as of now.

Learned counsel for the petitioner-defendant further argues that as per the averments made in para-2 of the suit, property has been transferred by plaintiff No.1 in favour of plaintiff No.2 hence, suit by plaintiff No.1 is not maintainable.

It may be noticed that in the present suit both the respondents are plaintiffs hence, the said objection which is being raised by the learned counsel for the petitioner is not maintainable.

Keeping in view the above, the direction issued by the trial Court vide impugned order to prove issue No.1 onus of which is upon the petitioner-defendant cannot be treated to be arbitrary or illegal in the facts and circumstances of the case. No ground for interference by this Court is made out and the present revision petition is accordingly dismissed.

April 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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