

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CR-2264-2023

Date of Decision :18.04.2023

Adani Agri Logistics (Panipat) Limited

..Petitioner

Versus

Bani Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Akshay Kumar Jindal, Advocate for the petitioner.

* * *

Harsimran Singh Sethi, J. (Oral)

Present petition has been filed for setting aside the order dated 23.01.2023 (Annexure P-1) by which, an application filed by the petitioner-plaintiff under Order 11 Rule 12 and Rule 14 read with Section 151 of the CPC for the discovery and production of the documents has been dismissed.

Learned counsel for the petitioner-plaintiff submits that in the present case, suit has been filed under Sections 34 and 38 of the Specific Relief Act, 1963 for declaration of possession by way of specific performance of agreement to sell dated 11.10.2018 with consequential relief of permanent injunction.

Learned counsel for the petitioner/plaintiff further argues that in the present case, defendant No.1 had entered into an agreement to sell for the property in question by stating that the said property was under mortgage with a particular bank and he had taken the amount mentioned in the agreement in advance for payment of mortgage amount but thereafter, it

came to the knowledge of the petitioner-plaintiff that property in question has been transferred in the name of defendant No.2, who is a son of defendant No.1 by way of transfer deed. Learned counsel for the petitioner-plaintiff submits that the aspect as to whether the money alleged to have been given by the petitioner-plaintiff was used to redeem the property in question under mortgage before the same was transferred, is very relevant hence, an application filed by the petitioner/plaintiff should have been allowed whereas, the said application has been dismissed by the trial Court on the ground that petitioner-plaintiff is well within his jurisdiction to summon the bank officials to prove the said assertion.

I have heard learned counsel for the parties and have gone through the record with his able assistance.

It may be noticed that in the present suit even the agreement to sell has been denied by the defendants. Under these circumstances, production of the documents, which are being sought are only on account of apprehension. Nothing has been mentioned as to what is the date of letter by which the property in question was redeemed by defendant No.1 and how the payment was made. Assertions in the application show that petitioner/plaintiff is only making effort to gather the actual facts which is not permissible. In the absence of any particular document to be produced only general information is being asked, which actually amounts to disclosure of defence on the part of the defendants.

Further, once the petitioner-plaintiff is within his right to prove the fact that the property in question was under mortgage and same has been redeemed by the defendants in respect of the alleged payment made in pursuance to the alleged agreement to sell, the same can be proved by

leading cogent evidence to the said effect by summoning bank official. No prejudice is shown to have been caused to the petitioner/plaintiff in view of the impugned order.

Keeping in view the above, no ground is made out for interference by this Court and the present revision petition is accordingly dismissed.

April 18, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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