

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

251

CRM-M-23180-2021

Date of Decision: 5th October, 2023

Bikar Singh

... Petitioner

Versus

Satnam Singh and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Rupinder Kaur Think, Advocate for the petitioner

Mr. B.S. Mittal, Advocate for respondents No. 1 to 3.

Mr. K.S. Godara, Advocate for respondent No. 4.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed seeking quashing of orders dated 16.3.2021 and 28.8.2018 dismissing the revision and complaint respectively.

2. Brief facts are that the petitioner filed a complaint alleging that as per the family settlement Satnam Singh agreed to transfer additional land measuring eight Kanals in favour of the petitioner, in addition to his share of 160/2036. The petitioner filed a suit for declaration that he is owner in possession of the land in question. The suit was decreed vide judgment dated 19.7.1999, holding it shall not be enforceable unless the decree is registered. It was claimed that on basis of decree, mutation was entered and sanctioned. The suit CS No. 699 dated 1.8.2018 filed by the petitioner against Satnam Singh and Punjab National Bank, Kalan Wali (PNB) was dismissed on 30.4.2005. It was alleged in complaint that the accused in connivance with each other in

the year 2009 obtained collusive decree in favour of Jagsir Singh from

Lok Adalat by concealing the judgment and decree dated 19.7.1999. Thereafter, mutation was got entered and sanctioned illegally. The accused tried to forcibly take possession of land in question.

3. On failure of the complainant to *prima facie* prove that he was fraudulently induced to deliver the property or that the mutation (Exhibit P-11) was forged for purpose of cheating, the complaint was dismissed on 28.8.2018. The revision filed met the same fate on 16.3.2021.

4. Learned counsel for the petitioner submits that the Court erred in dismissing the complaint by considering the evidence adduced threadbare rather than taking it on face of it. The contention is that the petitioner was owner in possession of land in pursuance to the decree dated 19.7.1999.

5. Learned counsel for the respondent defends the impugned order and submits that decree passed in the year 1999 was not enforceable for non-registration. He further submits that in the suit No. 699-C of 2000/2001, a finding was recorded that petitioner was not in possession of land mortgaged by Satnam Singh to PNB.

6. Heard learned counsel for the parties and perused the pleadings.

7. It is undisputed fact that the judgment and decree dated 19.7.1999 was not enforceable till registered. Decree attained finality but was not got registered. The emphasis in the complaint was that accused fraudulently got the decree in favour of the Jagsir Singh in 2009 and with an intent to cheat, got the mutation entered and thereafter, tried to forcibly take possession of the land in question. The complaint was

rightly dismissed considering that the decree of the year 1999 was not enforceable till registered. There was a finding recorded in judgment dated 30.4.2005 that the petitioner was not in possession of the suit land mortgaged with PNB by Satnam Singh and that there was no revenue entry with respect to judgment of 1999. It is not the case set up even now that the decree passed in favour of Jagsir in 2009 was challenged by the petitioner.

8. The contention of learned counsel for the petitioner that the Court erred in not accepting the preliminary evidence on face value is misplaced. The Court has to *prima facie* satisfy itself that a case is made out for summoning the accused. There is no bar for taking into consideration the exhibited documents, moreso, judgments and decrees passed between the parties, particularly when these hit the root of the allegations. In other words, the finding recorded against the petitioner in 2005 decree proves fatal for the allegation in the complaint.

9. No ground is made out for interference in the impugned orders.

10. The petition is dismissed.

11. Since the main case has been dismissed the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

5th October, 2023
anuradha

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