

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-14577-C-2018 in/and

RSA-4338-2009

Date of decision: 17.04.2023

PARMINDER KAUR AND ANR

...Appellants

VS

AMRU RAM AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Anirudh, Advocate,
For non-applicant/appellants.

Mr. A.D.S.Jattana, Advocate
For applicant/respondent No.1.

Ms. Promila Nain, Advocate and
Ms. Harleen Ahluwalia, Advocate,
For respondent No.2 to 4.

ARUN MONGA, J. (ORAL)

CM-14577-C-2018

This is an application moved by respondent No.1 herein for placing on record Compromise deed dated 25.08.2018 (Annexure CA) (sic. Ex.CA) and for disposal of appeal in terms of the compromise deed.

Instead of rendering piecemeal decision, it is deemed appropriate to decide the main case and no separate order in this application is required to be passed.

Application stands disposed of, accordingly.

Main case

Second appeal herein arises out of main civil suit filed by deceased Amru Ram (plaintiff) seeking a decree of declaration that he was the sole owner of suit property bearing House No. 3233, Sector 46, Chandigarh and his pre-deceased son, namely, Sohan Lal who was the recorded owner/allottee had not paid any consideration and in fact, the entire purchase money was given by plaintiff. Though, widow of other son, Sat Pal who was alive at the time of filing of suit, is contesting the claim of plaintiff in the present appellate proceedings based on the findings that her deceased husband had also contributed in purchase of the suit property.

2. Learned trial Court partly decreed the suit declaring that plaintiff and pre-deceased son Satpal are equal owners having $\frac{1}{2}$ share each. First appeal filed against the same by deceased plaintiff as well as another appeal filed by widow of Sohan Lal, namely, Parminder Kaur were both dismissed upholding the judgment and decree of learned trial Court. Second appeal before this Court was preferred by Amru Ram (since deceased) during his life time and since he expired during pendency of the proceedings, the legal representatives i.e. widows of both the sons and minor grandchildren were impleaded as Legal Representatives. They claim their right through succession in suit property of deceased Amru Ram. During pendency of the appellate proceedings, widow of pre-deceased son Sohan Lal and the widow of plaintiff-Amru Ram have entered into a compromise, which has been brought on record. Based on the said compromise recited as Annexure CA

with CM No.14577-C-2018, learned Senior counsel under instructions from Legal representatives of deceased appellant Amru Ram namely, Nasib Kaur widow of Amru Ram, Parminder Kaur widow of Sohan Lal s/o Amru Ram, Sukhjinder, Gagandeep Kumar sons of Sohan Lal and Kamla daughter of Amru Ram, seeks to withdraw the appeal.

3. The withdrawal of appeal is being opposed by respondent No.2-Jaswant Kaur, widow of other son Satpal, on the ground that she is entitled to half of share of deceased Amru Ram, being widow of his younger son Satpal.

4. Said claim is opposed by stating that Amru Ram had since left a Will in favour of his widow and, therefore, widow of deceased son Satpal is not entitled to anything and alternatively, even if the Will is to be disbelieved, at the most she is entitled to 1/6th share by way of succession.

5. Be that as it may, appeal is permitted to be withdrawn with liberty to Jaswant Kaur widow and the sons of deceased Satpal to challenge the Will propounded by Nasib Kaur widow of Amru Ram by way of filing appropriate civil proceedings before competent Court within 08 weeks from today along with certified copy of this order. It is also directed that till the decision on such challenge to the will and the succession of Amru Ram is rendered by learned trial Court, parties shall maintain status quo *qua* the physical possession in respect of portions, occupied by them in terms of order dated 08.11.2017 passed by this Court, which is reproduced herein below:-

“This is an application filed for modification/clarification of the Order dated 28.09.2017; wherein, as an interim arrangement during the pendency of appeal, it was ordered that the Ist floor of the house shall be vacated by the respondents and the vacant possession of the same shall be handed over to the appellants within one month. Still further the order was passed that if vacant possession was not handed over within one month then the appellants shall be entitled to take police help to take the possession of the same.

The applicant/respondent No.2; Jaswant Kaur has filed the present application; since she claims to be in possession of the Ist floor of the house, besides being in possession of some portion on the ground floor.

Notice of the application was given to both the opposite counsel.

After deliberation it has been agreed between the parties that the applicant/respondent No.2; Jaswant Kaur, along with her two children shall be permitted to retain the Ist floor of the house in question. However, it is further agreed that the room at the ground floor and any other portion at the ground floor; where she is running STD; shall be vacated by her and she will entirely shift at the Ist floor.

Accordingly, the Order dated 28.09.2017 is modified and it is ordered that respondent No.2, Jaswant Kaur shall vacate all and any portion under her occupation on the ground floor of the house in question. She is permitted to retain the Ist floor of the house in question. For the purpose of vacation of the ground floor, the applicant/respondent No.2 is granted two months time. It is made clear that if the ground floor is not vacated by the applicant/respondent No.2; within two months from today; then the appellants shall be at liberty to take recourse to the police help, to get the ground floor vacated from respondent No.2; without requirement of taking any other legal proceedings before any Court.

It is made clear that this is only an interim arrangement made in the interest of the family, during the pendency of the appeal. This will not prejudice the respective rights of either of the parties.

The order dated 28.09.2017 is modified to that extent.

Photocopy of this order be placed on the files of the other connected cases.”

6.

The above order shall continue to operate during pendency of the trial provided the steps are taken to file appropriate suit proceedings, as aforesaid.
7.

Liberty is also granted to challenge the compromise deed dated 25.08.2018, which has been brought on record, as prayed for by learned counsel representing Jaswant Kaur who states that Nasib Kaur widow of Amru Ram could not have entered into compromise, given that she is 90-year old and she is of unsound mind. However, it is not for this Court to observe anything *qua* the allegation, as has been made in course of hearing and same is being simply noted leaving it open to respondent No.2-Jaswant Kaur to challenge the same on whatever grounds may be available.
8.

Disposed of in above terms.
9.

Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

17.04.2023
vandana

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