

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

CR-4255-2022(O&M)

Date of decision:-19.1.2023

Aurushi Kotia

...Petitioner

Versus

Abhinav Gupta and another

...Respondents

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

Present: Mr.Jagdeep Singh Rana, Advocate
for the petitioner.

Mr.Rakesh Dhiman, Advocate
for respondent No.1.

Mr.Jagjot Singh, Advocate
for the respondent No.2.

H.S. MADAAN, J.

1. Briefly stated, the facts of the case are that plaintiff Abhinav Gupta had brought a suit against M3M India Ltd. and Aurushi Kotia seeking a declaration that he is absolute owner of the suit property craving for issuance of a direction to defendant No.1 builder to execute conveyance deed in his favour alone on the basis of settlement arrived at between him and his Ex-wife defendant No.2 Aurushi Kotia.
2. On getting notice, both the defendants appeared. Defendant No.2 contested the suit and denied any settlement having arrived at

between the plaintiff and such defendant, rather labelling the alleged settlement to be result of fraud and forgery.

3. Defendant No.2 had filed an application under Section 7 Rule 11 CPC for rejection of the plaint on the ground that jurisdiction of the Civil Court was barred because the plaintiff and defendant No.2 were husband and wife when the property in dispute was jointly purchased.

4. The plaintiff had contested that application contending that his marriage with defendant No.2 has already been dissolved by decree of divorce passed by Family Court, Gaziabad (U.P.) though when the suit was filed, marriage was subsisting.

5. After hearing both the parties, the trial Court of Civil Judge (Jr.Divn.), Gurugram had dismissed the application vide order dated 13.9.2022. For ready reference, the operative part of the order is being reproduced as under:

Admittedly, marriage between the plaintiff and defendant No. 2 has been dissolved although the decree is under challenge. The dispute between the parties is regarding a property proposed to be sold by M3M India Limited. The agreement was in favor of the plaintiff and defendant No. 2. There arose a dispute between them regarding rights in the property. However, third party interest i.e. the builder is also involved in the case. It is not purely a matrimonial dispute to be adjudicated by Ld. Family Court. Therefore, application of defendant No. 2 is dismissed.

6. Such order left defendant No.2 aggrieved and she has

challenged that order by way of filing the present revision petition, notice of which was issued to the respondents, who put in appearance through counsel.

7. I have heard learned counsel for the parties besides going through the record.

8. Keeping in view the nature of dispute, subject matter of the suit and parties thereto, the trial Court was justified in coming to the conclusion that jurisdiction of the Civil Court in the matter was not barred. Even otherwise, ouster of jurisdiction of the Civil Court is not to be readily inferred. The nature of dispute does not show that it is purely of matrimonial nature between two spouses. Rather it comes out to be of civil nature involving the property said to have been jointly purchased by them regarding which conveyance deed was to be executed by the builder defendant No.1. Even otherwise, in the impugned order on an application having been filed by the plaintiff for direction to the builder to execute the conveyance deed jointly in his favour and that of defendant No.2 during the pendency of the suit so that he was not penalized with late fee charges and can use the property for his benefit, that application was accepted by the trial Court.

9. I do not find any illegality or infirmity in the impugned order, which might have called for interference by this Court while exercising revisional jurisdiction.

10. 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.

19.1.2023

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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No