

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

305

CWP-23348-2022
Date of Decision: 11.01.2023

ANJANA KHURANA

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Sangita Dhanda, Advocate
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed under Article 226 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Mandamus directing the respondent No.2 to register the sale deed of petitioner on the basis of unregistered Will dated 08.02.2019 (Annexure P-2) in favour of the proposed buyer in compliance with Section 18 of Registration of Documents Act, 1908.

Learned counsel for the petitioner contends that the petitioner alongwith her husband- Ram Asra Khurana were having a Flat No.E-1404, Park View City 2, Gurugram having half share each vide sale deed dated 03.12.2008. The husband of the petitioner executed a Will dated 08.02.2019 in her favour with regard to his half share in the aforementioned flat. A copy of the said Will is enclosed with the petition as Annexure P-2. Subsequently, Ram Asra Khurana (husband of the petitioner) died on 19.09.2020. With an intention to dispose of the above said flat, the petitioner came to India on

09.09.2020 and entered into an agreement to sell with a prospective buyer on 22.09.2022. However, the sale deed was not registered by the Sub Registrar, Badshahpur in violation of the mandate of Section 18 of Registration Act, 1908.

Pursuant to the notice issued by this Court, a reply by the Sub-Registrar, Badshahpur, Gurugram had been filed. The relevant extract of the same is reproduced hereinafter below:

“1. That in this regard, it is pertinent to submit that neither petitioner nor her representative as stated by the petitioner in the petitioner, visited the office of answering respondent on dated 22.09.2022, 03.10.2022, 06.10.2022 and thereafter with complete documents to complete the formalities of sale. The petitioner has not attached with the present petition, any copy of sale deed with which the representative of the petitioner and petitioner herself went to the office of answering respondent to complete the formalities of sale as stated in the petition. In order to complete the formalities of sale, a sale deed is drafted in which name of seller and buyer and sale consideration required to be mentioned and stamp duty is also required to be affixed. A perusal of whole petition reveals that it is nowhere mentioned so i.e. the documents of sale deed, buyer, sale consideration, stamp duty etc. thereon affixed/required to be affixed. Had there been any buyer and sale deed with the petitioner, the petitioner must have mentioned the same in the petition; as there is no legal binding on the petitioner not to mention the same and on the other hand, the petitioner is required to mention the same if having buyer and sale deed. The non mentioning of the said averments in the petition as well as not attaching the said required documents i.e. sale deed, itself prove that the petition against the answering respondent is totally wrong, false and baseless.

2. That in this regard, it is submitted that if any sale deed would be presented by the petitioner for registration to the

answering respondent on the basis of Will dated 08.02.2019, Annexure P-2, it would be registered after making compliance of provisions of Section 34 of the Registration Act, 1908, Provisions of Haryana Registration Manual and Stamp Act etc.; if the same would be found to be in accordance with law. Thus, the present petition deserves to be dismissed, in the interests of justice.”

Learned counsel for the petitioner contends that the respondent-Sub Registrar has specifically stated in the preliminary submissions that in the event of the sale deed being presented by the petitioner for registration on the basis of above said Will dated 08.02.2019, it shall be registered after compliance of the provisions of the Section 34 of Registration Act, 1908, Provision of Haryana Registration Manual, 1967 and Stamp Act, 1899 etc., if the same is found in accordance with law.

In view of the aforesaid stand taken by the respondent, learned counsel for the petitioner contends that there is no subsisting grievance and as such the present petitioner has become infructuous.

Disposed of as having been rendered infructuous.

11.01.2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No