



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

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CR-796-2024 (O&M)**Decided on: 15.05.2024****Surinder Kaur****...Petitioner****Versus****Bhajan Kaur and others****...Respondents****CORAM: HON'BLE MRS JUSTICE RITU TAGORE**

Present: Ms. Aarti, Advocate
for the petitioner.

RITU TAGORE, J.(Oral)

1. This revision is directed against the order dated 27.10.2023 (Annexure P-6), passed by learned Additional Civil Judge (Senior Division), S.B.S. Nagar, whereby learned trial Court dismissed the application, filed by the petitioner (defendant No.1 before the learned trial Court) under Order 7 Rule 11, CPC.

2. Learned counsel representing the petitioner submits that respondent No.1 (the plaintiff before the learned trial Court) instituted a suit for declaration and permanent injunction against petitioner (defendant No.1) and respondents No.2 to 6, seeking declaration that she and defendant No.5 are owners of the suit land, detailed in the headnote of the plaint and are entitled to the compensation amount of suit property awarded by defendant No.6 and further defendant No.6 be restrained from releasing the compensation amount to petitioner and respondents No.2 to 4 (Annexure P-1).



4. Learned counsel states that impugned order is indefensible in the eyes of law, as learned trial Court failed to appreciate that suit filed in present form is not maintainable, being barred under the provisions of The National Highway Act, 1956 (in short as 'the Act'). Learned counsel submits that respondent No.1 filed a suit (Annexure P-1) of declaration claiming therein her ownership based on some false sale deeds dated 28.04.1978, alleging that father of the petitioner and respondents No.2 to 4 sold the suit land to her parents and after the death of her parents she and defendant No.5 (respondent No.5) have become owners of the suit land. Based on these averments, claimed her right to receive compensation from the authorities after the acquisition of the suit land. It is stated by counsel for petitioner that as per Section 3H (4) of the Act in case of any dispute as to apportionment and entitlement of the compensation, the competent authority under the Act is to refer the matter to Principal Civil Court of original jurisdiction, where the land is situated, for decision on rival claims. It is stated that in these circumstances, the plaintiff has no cause of action to file the suit. In case of any claim, the respondent No.1 (plaintiff) should approach the designated authority under the Act. The suit is clearly barred under the provisions of the Act.

5. Learned counsel urges the learned trial Court failed to encompass the issue in proper manner and fell in error in rejecting the application (Annexure P-3). A prayer is made to set aside the impugned order by accepting the revision petition.

6. I have heard learned counsel for the petitioner and have gone through the paper book.

7. It is matter of record, respondent No.1 (plaintiff) filed suit for declaration to the effect that the she and respondent No.5 (defendant No.5)



are the owner in possession of the suit land as detailed in the plaint (Annexure P-1). Respondent No.1 claimed herself along with respondent No.5 to be the erstwhile owners of the suit land by claiming that father of the petitioner and respondents No.2 to 4 sold the suit land to her parents before its acquisition and after the death of her parents, the suit land devolved upon her and respondent No.5 (defendant No.5), as such they are entitled to the compensation amount of suit land, awarded by respondent No.6 (defendant No.6). She also sought relief of permanent injunction, restraining respondent No.6 (defendant No.6) from releasing the compensation amount of the suit land to petitioner and respondents No.2 to 4 (defendants No.1 to 4).

8. It is settled position of law that for the purpose of adjudication under Order 7 Rule 11 CPC, averments made in the plaint on their face value are to be considered. The material contained in written statement is not to be considered. The perusal of the plaint indicate that respondent No.1 (plaintiff) is seeking declaration to the suit land on the basis of the sale deeds dated 28.04.1978 and consequential relief of injunction restraining respondent No.6 (defendant No.6) not to release the assessed compensation of the suit land to petitioner and respondents No.2 to 4 (defendants No.1 to 4). It is not a case where the plaint of the suit does not disclose a cause of action against the petitioner and others. The respondent No.1 (plaintiff) is claiming declaration of her rights in the suit land on the claimed assertions and consequently her entitlement for the compensation. In so far as her right to seek declaration is concerned it is only the Civil Court, which is competent to adjudicate upon. Her suit, thus cannot be taken as barred by the provisions of the Act.

9. In view of the above discussion, no illegality is found in the order of the learned trial Court calling for any interference in the same.

There is thus no merit in the revision petition. Accordingly, it is hereby dismissed.

10. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

15.05.2024
Rimpal

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