

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**120****CR No.885 of 2024 (O&M)****Reserved on : 14.02.2024****Date of Decision : 20.02.2024**

Jagtar Singh

....Petitioner

VERSUS

Mandir Sat Narain Trust & Anr.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Kiranpreet Kaur, Advocate for the petitioner.

ALKA SARIN, J.

1. The challenge in the present revision petition is to the order dated 09.02.2023 passed by the Executing Court dismissing the objections filed by the petitioner and also to order dated 19.12.2023 passed by the Appellate Court dismissing the appeal of the petitioner.

2. The brief facts relevant to the present *lis* are that the respondent No.1 filed an ejectment application (Annexure P-1) seeking eviction of the respondent No.2 from the demised premises. Vide order dated 06.07.2013 (Annexure P-2) the eviction was ordered by the Rent Controller. In execution proceedings the petitioner filed objections (Annexure P-3) contending that the respondent No.1 (decree-holder) was trying to grab the property in question without any right, title and concern and that there was no document of title in its favour. It was averred that when the petitioner requested respondent No.1 (decree-holder) to admit his claim they refused to accept the same which constrained him to file a suit for declaration and injunction against the respondent No.1 (decree-holder) and respondent No.2 (judgment-debtor). As per the petitioner the alleged tenancy is bogus and

was created to grab the property in question on the basis of a forged rent note. According to the petitioner his maternal grandparents were owners in possession of the property in question and after the death of his maternal grandfather, his maternal grandmother was residing in the property in question and that the petitioner had been residing with his maternal grandmother. It was claimed that after the death of his maternal grandmother the petitioner came into possession of the property in question and raised construction of a two-storeyed shop which was given on rent to one Harjit Singh son of Massa Singh as per rent note dated 15.07.2008. The said tenant was stated as being in possession of the property in question. It is claimed that there was litigation between the petitioner and his tenant Harjit Singh and a suit for permanent injunction was disposed off vide compromise order dated 30.08.2013. It was stated that the eviction order was not executable as the same was obtained by playing misrepresentation and fraud and that the execution be dismissed.

3. The respondent No.1 (decree-holder) filed a reply (Annexure P-4) denying that the eviction order was obtained by playing fraud and misrepresentation upon the court or that the same was liable to be set aside. It was denied that the maternal grandparents of the petitioner were residing in the property in question and after their death the petitioner came in possession over the same. In connection with the litigation put forth by the petitioner it was submitted that the same was procured by the petitioner in connivance with the alleged tenant Harjit Singh and that the same was collusive. As per respondent No.1 (decree-holder) the petitioner has no status and is trying to grab the property of the Mandir Trust.

4. Vide order dated 09.02.2023 the Executing Court dismissed the objections filed by the petitioner. It was found that the petitioner had failed to show that his maternal grandparents had any interest in the property in question. The appeal of the petitioner against the order dated 09.02.2023 was dismissed by the Appellate Court vide order dated 19.12.2023. Hence, the present revision petition.

5. Learned counsel for the petitioner has contended that the Courts below have erred in dismissing his objections. According to counsel the petitioner has inherited the property in question from his maternal grandparents and respondent No.1 (decree-holder) in connivance with respondent No.2 (judgment-debtor) was trying to grab and usurp the property in question. As per counsel, the eviction order against respondent No.2 (judgment-debtor) is vitiated by fraud.

6. I have heard learned counsel for the petitioner.

7. The Executing Court found that *“in the executing proceedings relating to eviction decree, this court is not competent to decide the title in regard to the property. Even otherwise, there is nothing on record to show that the property in question was ever owned by the maternal grandparents of the objector. Without producing any document of title indicating the previous interest of the maternal grandparents in the property in question and its alleged subsequent devolvement upon the objector, it cannot be deduced that previously maternal grandparents of objector and thereafter, the objector has any right, title or interest in the suit property”*. In the appeal the Appellate Court found that *“From the perusal of the file it is also clear that there is nothing on record to show that the property in question was ever owned by the maternal grandparents of the objector. Without*

producing any document of title showing the previous interest of the maternal grandparents in the property in question and further subsequent interest of the objector, it cannot be concluded that previously maternal grandparents of objector and thereafter, the objector has any right, title or interest in the suit property. From the evidence adduced on record, it is not clear that how the objector has tried to connect his grandparents or himself to the property in question. Neither any site plan has been produced to show the identity of the property nor any other document has been shown, which could connect the objector with the property in any manner". Even before this Court the counsel for the petitioner has been unable to show anything from the record which could connect the petitioner with the property in question. The compromise order (Annexure P-5) passed in a suit between the petitioner and his alleged tenant Harjit Singh does not deal with the ownership of the property in question and as such cannot be of any assistance to the petitioner. There being no established connection between the petitioner and the property in question, the objections have rightly been dismissed. No other point was argued.

8. In view of the above, there is no illegality or material irregularity in the impugned orders. I do not find any merit in the present revision petition and the same is dismissed. Pending applications, if any, also stand disposed off.

**(ALKA SARIN)
JUDGE**

20.02.2024

jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO