

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

CR-2086-2024 (O&M)

Date of Decision : 30.04.2024

SATINDER KAUR

.... Petitioner

VERSUS

ATUL KUMAR & ORS.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.D. Sharma, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the impugned order dated 02.02.2024 (Annexure P-5) passed by the learned Civil Judge (Junior Division), Amritsar whereby the application filed by the petitioner for striking out issues No.7 to 9 which were framed by the Trial Court vide order dated 19.07.2022 was dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-respondents filed a suit for declaration to the effect that they were owners in possession of the property as fully described in the plaint. In para No.2 of the plaint it was averred that about 6 months ago the plaintiffs came to know that defendants No.1 to 3 had propounded a Will of their father, namely, Ram Parkash. It was further averred that Ram Parkash died intestate and after his death the plaintiffs as well as defendant No.1 (respondent No.4 herein) succeeded to his entire estate to the extent of 1/4th each. It was further the averment that the said Will was absolutely illegal and invalid. It was further averred that on the basis of the said Will defendant No.3 is

alleged to have executed a sale deed in favour of defendants No.4 and 5 qua property as mentioned in Item No.B in the heading of the plaint. Thereafter, defendants No.4 and 5 executed a power of attorney in favour of defendant No.8 and also executed sale deed in favour of defendants No.6 and 7 (petitioner herein). On the basis of the pleadings vide order dated 19.07.2022 the following additional issues were framed :

7. Whether the deceased Ram Parkash executed any Will, if so, its effect ? OPD
8. Whether the defendants No.1 to 3 sold the property to defendants No.4 and 5 vide alleged sale deed dated 17.07.2009 ? OPD
9. Whether the defendants No.6 and 7 purchased the property vide alleged sale deed dated 12.03.2013 ? OPD
10. Relief

Subsequently an application was filed under Order 14 Rule 5 read with Section 151 CPC for striking out issues No.7 to 9 on behalf of the defendant (petitioner herein). The said application was dismissed vide impugned order dated 02.02.2024.

3. Learned counsel for the petitioner would contend that the said additional issues would not arise in the present case as the petitioner herein is a *bonafide* purchaser and the other defendants, who were his vendors, have since been proceeded against *ex parte*.

4. Heard.

5. In the present case the entire issue, as raised in the plaint, is as to whether any Will was executed by Ram Parkash in favour of defendants No.1 to 3 and whether the sale deed executed by defendant No.3 in favour of defendants No.4 and 5 was valid and subsequently the sale deed in favour of defendant-petitioner was valid. All the sale deeds are under challenge. The sale deed in favour of defendant-petitioner herein is under challenge on the ground that the vendors did not have any right, title or interest in the property and they did not have the right to sell the same. In view of the pleadings of the parties, which have been placed on the record, I find that the issues have rightly been framed. No fault can be found with the impugned order dated 02.02.2024 dismissing the application filed by the petitioner herein for striking out issues No.7 to 9. There is no illegality or irregularity in the impugned order.

6. In view of the above, the present revision petition, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

30.04.2024
Aman Jain

(ALKA SARIN)
JUDGE

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