



CR-2571-2023 (O&M) 1

124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCR-2571-2023 (O&M)
Date of Decision: 08.05.2024

Davinder Singh

...Petitioner

versus

Harkrishan Singh and others

... Respondents

CORAM : HON'BLE MR.JUSTICE GURBIR SINGH

Present: Mr.G.S.Sandhu, Advocate for the petitioner.

GURBIR SINGH, J.

1. Challenge in this petition is to order dated 19.01.2023 passed by Civil Judge (Jr.Division), Ludhiana whereby applications moved by the petitioner under Order 6 Rule 17 C.P.C. for amendment of the plaint and for impleading parties under Order 1 Rule 10 C.P.C. , were dismissed.

2. Parties are being addressed by their status in the original plaint.

3. Plaintiff/petitioner moved an application for amendment of the plaint on the ground that defendant No.1 is the father of the plaintiff, defendant No.2 is his real brother and defendant No.3 is the wife of defendant No.2 and sister-in-law of the plaintiff. Mother of petitioner namely Smt. Surinder Kaur was the owner of different properties situated in the area of Ludhiana and Delhi. She expired on 08.09.2015. On her death, all the properties were inherited by plaintiff and defendants No. 1 and 2 in equal shares.

4. Defendant No.1, father of plaintiff, by undue influence, allowed him to transfer the properties situated at Delhi in his favour and he



promised that after transfer of the said properties he would pay value of 1/3rd share of the said property to the plaintiff. So, he relinquished his 1/3rd share of Delhi property in favour of defendant No.1 as per relinquishment deed dated 08.08.2016. Defendant No.1/respondent executed a relinquishment deed dated 8.9.2016 in favour of plaintiff of property situated in Ludhiana in favour of plaintiff by defendant No.1. The value of the property in Ludhiana was quite low but defendants, as per promise, failed to pay the balance amount of share to the plaintiff. Defendant No.1 sold the property at Delhi to various persons and failed to pay the amount of share to the plaintiff. The defendants did not disclose to the plaintiff about the person in whose favour the property was sold. So, plaintiff could not challenge the sale/transfer deeds at the time of filing of the suit. During the pendency of the suit, plaintiff came to know about the execution of the sale deeds by defendant No.1 in favour of different persons. Said sale deeds are illegal, null and void. Another application was moved for impleading vendees of the different sale deeds as defendants No. 4 to 7 being necessary parties. Learned trial Court dismissed both the applications by the impugned order. Plaintiff is aggrieved by the said order.

5. Learned counsel for the petitioner/plaintiff has argued that earlier defendant moved an application under Order 7 Rule 11 C.P.C. for rejection of the plaint on the ground that the suit properties were situated at different places and the Court had no territorial jurisdiction to try this suit. Learned trial Court, in its order dated 17.08.2019 relying on Section 17 of C.P.C., held that where a suit is to obtain relief regarding immovable property situated within the jurisdiction of different courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any part



of the property is situated and plaint could not be rejected. It is argued that the proposed amendment is necessary and parties to be impleaded are also necessary parties. Part of the suit properties are situated in Ludhiana, Jalandhar and Delhi. Since property is also situated in Ludhiana, so, Civil Court at Ludhiana has jurisdiction to try the suit.

6. I have heard the submissions of learned counsel for the petitioner.

7. The plaintiff originally filed suit for permanent and mandatory injunction wherein the following relief was claimed:-

“Suit for permanent injunction restraining the defendants, their attorneys etc. from cancellation of the transfer deeds vasika no.7656 dated 08.09.2016 and 7657 dated 08.09.2016 executed by defendant no.1 and 2 in favour of the plaintiff of property H. No.791-G, Shaheed Bhagat Singh Nagar, Pakhowal Road, Ludhiana measuring 125 Sq Yards double storey, comprised in khasra no.69//15, khata no.1756/1901, jamabandi for the year 2006-2007, situated at Village Sunet, Hadbast No.159, Tehsil and District Ludhiana.

AND

Suit for permanent injunction restraining the defendants, their associates, attorneys, relatives, employees and other relations etc. from interference and dispossession of plaintiff from the property H.No.788-G, Shaheed Bhagat Singh Nagar, Pakhowal Road, Ludhiana measuring 125 Sq. Yards double storey.

Further restraining the defendants from alienate, transfer, mortgage, exchange, possession of the suit properties (l) Plot no.77 measuring 13 marlas and 64 sq.feet (40'x90'=400 Sq. Yards), situated at Diamond City Colony, Dhilwan, Tehsil and District Jalandhar comprised in khasra no.15//16/2, 25/2, 16//20/2,21/1, 21/2,22/3, khata no.278/ 326, 279/ 327, jamabandi for the year 2010-2011, hadbast no.191 Tehsil and



District Jalandhar (2) H.No.71, Khera Enclave, Near Rama Mandi, Jalandhar

AND

Suit for mandatory injunction for issue the directions to the defendants to disclose movable and immovable properties i.e the accounts, bank accounts, assets, properties, cash, gold etc. earned from the properties of Late Smt. Surinder Kaur, wife of defendant no.1, mother of plaintiff and defendant no.2, and mother-in-law of defendant no.3 and further issue directions to the defendants to hand over the 1/3 legal rights of the plaintiff for which the plaintiff is entitled from the movable and immovable properties left by the mother of plaintiff and defendant No.2 and wife of defendant No.1 deceased Surinder Kaur who died on 8.9.2015.”

8. The suit is with regard to property situated in Ludhiana and Jalandhar only. Property of Delhi is not part of this suit.

9. The plaintiff, by way of amendment, wants to challenge the sale deeds executed by defendant No.1, pertaining to Delhi property, in favour of third persons, which are as under:-

(i) Sale deed registration No. 369 dated 7.2.2017 pertains to property bearing No.127, situated in Sector 22, Rohini, Delhi;

(ii) Sale deed registration No. 11031 dated 19.09.2018 pertains to property bearing No. G-8/4, Sector 11, Rohini, Delhi;

(iii) Sale deed registration No. 8713 dated 28.09.2017 pertains to property bearing No. G-8/4, Sector 11, Rohini, Delhi;

(iv) Sale deed registration No. 13459 dated 28.11.2018 pertains to property bearing No. G-8, Sector 11, Rohini, Delhi;

10. The sale deeds, which the plaintiff wants to challenge, were executed prior to filing of the suit. The property comprised in sale deeds is situated in Delhi and sale deeds were also executed there, so, no cause of



action has arisen in the territorial jurisdiction of Ludhiana pertaining to the properties which are to be included by way of amendment. The property of Delhi is not subject matter of the suit. The amendment which is necessary for the just decision of the case can definitely be allowed. The amendment for which no cause of action has arisen in the territorial jurisdiction of the particular Court cannot be allowed. The parties proposed to be impleaded are not necessary parties since said sale deeds cannot be challenged in the instant suit. This Court does not find any infirmity or illegality in the order passed by the Court below.

11. Accordingly this petition is dismissed in limine.
12. Pending Misc.Application(s), if any, shall also stand disposed of

(GURBIR SINGH)
JUDGE

08.05.2024
sunita

Whether Reasoned/Speaking : Yes/No
Whether Reportable : Yes/No