



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116 CR-2800-2024 (O&M)
Date of Decision : 03.09.2024

BIMLA DEVI Petitioner
VERSUS
SURENDER SINGH AND OTHERS Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satish Saini, Advocate for the petitioner.
Mr. Ajay Kripal Singh, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. Mr. Ajay Kripal Singh, Advocate has appeared and has filed his vakalatnama on behalf of respondent No.1. The same is taken on record.
2. The present civil revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 06.02.2024 passed by the Trial Court dismissing the injunction application and the order dated 12.03.2024 passed by the First Appellate Court dismissing the appeal.
3. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for declaration to the effect that she is the owner in possession of the house which has been shown at point ABCDEFGH in the site plan and there is a passage for ingress and egress which has been shown in green colour in the site plan and that this rasta is part of land bearing Khasra No.182//7 (8-3) 8 (7-18) 13 (8-14) Kitta 3 land measuring 24 Kanals 15 Marlas situated at Bhiwani Lohar, Tehsil and District Bhiwani and that the sale deed dated 23.06.2023 which has been executed by

defendant-respondents No.2 and 3 in favour of defendant-respondent No.1 pertaining to the said kharsa number was illegal, null and void. Along with the plaint an application for interim injunction was also filed for restraining the defendant-respondents herein from raising any construction.

4. The Trial Court vide the impugned order dated 06.02.2024 held that the plaintiff-petitioner failed to show any *prima facie* case in her favour and that the defendant-respondents had got a PID entry in the Municipal Council, Bhiwani. It was further noticed that no document had been placed on the record to even remotely suggest that the defendant-respondent No.1 was, in any manner, encroaching upon the land of the plaintiff-petitioner. It was further noticed that the sale deed dated 09.01.2019 in favour of the plaintiff-petitioner did not show that the previous vendor, namely, Usha had given 17 feet rasta to the plaintiff-petitioner for ingress and egress. It was also noted that it is not the case of the plaintiff-petitioner that there is no other street for ingress and egress to the property of the plaintiff-petitioner. The appeal by the plaintiff-petitioner against the order passed by the Trial Court was also dismissed by the First Appellate Court.

5. The learned counsel for the petitioner would contend that the rasta is being used for ingress and egress by the plaintiff-petitioner and that the sale deed in favour of the defendant-respondent was null and void. An argument has been raised by the learned counsel for the plaintiff-petitioner that the PID has since been cancelled by the Municipal Council, Bhiwani.

6. Learned counsel appearing on behalf of defendant-respondent No.1 has contended that the order passed by the Municipal Council, Bhiwani

cancelling the PID is under challenge. It is further the contention that there is not an iota of evidence on the record that the said land was a street except for the bald statement of the plaintiff-petitioner herein.

7. Heard.

8. It is to be noticed that the plaintiff-petitioner has chosen not to implead the Municipal Council, Bhiwani as a party in the present suit who would have been the best suited to state whether the property in dispute was a street. Further still, there is a registered sale deed in favour of defendant-respondent No.1 herein and in view thereof there possibly cannot be any injunction at this stage without the same being held to be illegal, null and void. The argument of the learned counsel for the plaintiff-petitioner that the PID has since been cancelled by the Municipal Council, Bhiwani cannot be taken into account at this stage as the same is under challenge. The site plan appended with the present petition as Annexure P-5 itself clearly reveals that there are two streets - one in the North-Eastern side and one in the North-Western side - from where the plaintiff-petitioner has ingress and egress to her property.

9. In view of the above, no fault can be found with the orders passed by both the Courts concerned. The present petition, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

03.09.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No