



CR-3892-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3892-2024 (O&M)

Date of Decision: 18.07.2024

Harbans Kaur Tiwana and another

... PETITIONERS

VS.

Gurbinderjit Kaur Tiwana and ors

... RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present : Mr. Ashutosh Gupta, Advocate,
for the petitioners.

RITU TAGORE, J.

1. This revision is directed against the order dated 02.04.2024 (Annexure P-1) passed by the learned Additional District Judge, Patiala and order dated 23.12.2020 (Annexure P-2) passed by the learned Civil Judge, Junior Division, Patiala, in a civil suit No.405 of 2018, whereby, the petitioners (defendants No. 1 and 2 before the learned trial Court), have been restrained from selling/mortgaging 1/3rd share of the suit property forcibly and except in due course of law. The appeal, preferred against the order dated 23.12.2020 by the petitioners was dismissed, affirming the order of learned trial Court.

2. Learned counsel for the petitioners argues that parties involved are related to each other. The respondent No.1 is the daughter-in-law of appellant No.1 and the sister-in-law of appellant No.2. She is widow of Gurpreet Singh, the deceased son of appellant No.1 and respondents No. 2 and



3 are the children of the deceased. Learned counsel further submits that Mr. Kulwant Singh Tiwana died intestate on 01.06.2014, leaving behind petitioners and Gurpreet Singh Tiwana his other son. Sh. Gurpreet Singh Tiwana, died on 18.06.2014 leaving behind respondents.

3. Learned counsel submits that property situated at village Dandranala Kharaaur, was jointly sold by the petitioners and respondent No.1 vide sale deed dated 04.10.2016 (Annexure P-5), for consideration of Rs.70,81,500/- and respondent No.1 received her share as well as share of her minor children from the sale consideration. It is contended that petitioner No. 1 purchased the suit land vide sale deed 13.12.2016 (Annexure P-6) from her own funds. Petitioner No. 1 is the absolute owner in possession of the suit land and respondents have no right or title in the same. Learned counsel, while referring to the judicial decisions mentioned in the grounds of Revision, submits courts below grossly erred in appreciating the legal position that no injunction can be granted against the true owner. It is stated that the respondents fail to make a *prima facie* case in their favor based on the pleaded facts and the alleged family settlement.

4. Learned counsel submits that respondents instituted a civil Suit for Mandatory and Prohibitory Injunction along with Declaration (Annexure P-3), pleading execution of a family agreement /settlement 27.07.2016 (Annexure P-4) between the petitioners and respondent No.1 with respect to the properties owned by late Shri. Kulwant Singh Tiwana and further pleaded that family agreement provided for giving 1/3rd share to respondents on purchase of the property after the sale of the estate of deceased Kulwant Singh Tiwana. The petitioners denied the assertions of the respondents in their written statement (P3/A). Learned counsel states that a perusal of terms of settlement (Annexure P-4) does not substantiate the version of the respondents. The terms



of family settlement (Annexure P-4) do not provide for giving any 1/3rd share to the respondents in the property which would be brought by the petitioners. Learned counsel contends that respondents raised wrong averments in the suit contrary to the terms of alleged family settlement, asserting their rights in the self-acquired property of petitioner No.1, purchased in village Ucha Gaon, Patiala vide sale deed (Annexure P-6), the suit land. Learned counsel for the petitioners contends that learned Courts below materially erred in concluding that in a family settlement petitioners No.1 and 2 had agreed to give 1/3rd share to respondents No.1 to 3 in the property purchased by them. It is stated that there are no equities in favor of the respondents, suggesting existence of three basic ingredients, namely *prima facie* case, balance of convenience in their favor and irreparable loss to them on decline of interim injunction to them. Conversely, it is stated that petitioner No.1, the lawful owner of the suit land, has been deprived of enjoying her rights in the suit land by grant of temporary injunction, causing irreparable loss and inconvenience to her. It is stated that the orders are arbitrary and against the settled provisions of law governing the grant of equitable relief by temporary injunction. Accordingly, a prayer is made to set them aside.

5. I have heard learned counsel for the petitioners and have perused the paper book with the valuable assistance of the learned counsel.

6. Relationship between the parties is not in dispute. The execution of family settlement dated 27.07.2016 (Annexure P-4) has been denied by the petitioners, as evident from their written statement (Annexure P3-A). They denied that after the death of Gurpreet Singh (husband of respondent No.1), a family agreement was executed on 27.07.2016 between the parties and petitioners had agreed to give 1/3rd share to respondents after selling the



properties mentioned in the agreement and purchasing another land or they will give 1/3rd share to respondents in the purchased land. They stated after death of Kulwant Singh Tiwana, his estate was inherited by his LRs, including Gurpreet Singh Tiwana, deceased-husband of respondent No.1. However, admitted that Rs.12,75,000/- were borrowed from respondent No.1 but asserted that same were returned to respondent No.1. On contrary, in the plaint, respondent No.1 has pleaded that her money was misappropriated by the petitioners. It is specifically pleaded that as per family settlement, defendants had agreed to give 1/3rd share in the purchased property, but in connivance with each other purchased the suit land exclusively in the name of respondent No.1.

7. The agreement (Annexure P-4) indicates that it was executed between petitioners and respondent No.1. In the same, it is mentioned that Kulwant Singh Tiwana, husband of appellant No.1 (wrongly typed as Kuldeep Singh Tiwana in the memo of the parties) was owner of a house situated at Patiala and 77 kila 8 marla of land situated in Dandranala Kharaur, Patiala. It is mentioned in the family settlement that the parties have decided to divide the entire property into three equal shares. It is also mentioned that whenever the property is sold, the respective 1/3rd share shall be given to the respondents and if respondents' share is not given, they may take legal course.

8. There are allegations of non-compliance of family agreement by the respondents against the petitioners, along with consequential assertions of their rights in the suit land, disputing the absolute ownership of petitioner No 1 in the suit land; with further allegation of misappropriation of the money of respondent No 1 by the petitioners. On the other hand, petitioners have vehemently denied the assertions of the respondents, including execution of family settlement, and have asserted the return of money to the respondent No.



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1. A perusal of the pleadings of parties have made out triable issues, requiring assessment of evidence to adjudicate their rival claims. Given the factual matrix, the respondents have certainly made out, existence of three sterling principles for grant of temporary injunction, namely *prima facie* case, balance of convenience, and irreparable loss to them, if temporary injunction is declined to them. The facts of the case call for preserving 1/3rd disputed share in the suit land, until the matter is decided on merits. Furthermore, it is a fit case to prevent the proliferation of litigation between the parties or with third party/ies.

9. In view of the aforesaid discussion, this Court is of the considered view that the Courts below have rightly exercised their discretion while deciding the interim application in favour of the respondents-plaintiffs. This Court finds no perversity or illegality in the impugned orders, warranting intervention by this Court.

10. Needless to mention, the aforesaid expression is confined purely for the issue in hand in this revision and has no bearing on the merits of the matter pending before the concerned Courts.

11. Resultantly, there is no merit in the revision petition and is, hereby, dismissed.

12. Pending application(s), if any, shall also stands disposed of.

18.07.2024
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(RITU TAGORE)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No