

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CR-7239-2023 (O&M)

Date of decision : 22.02.2024

Dhananjay Garg

... Petitioner(s)

Versus

Sanjay Garg and others

...Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. HPS Bhinder, Advocate for the petitioner.

Mr. Ketan Antil, Advocate for the respondents.

ALKA SARIN, J. (ORAL)

1. Challenge in the present revision petition is to the order dated 17.07.2023 whereby the application filed under Order 1 Rule 10 of Code of Civil Procedure has been dismissed.

2. The brief facts of the present case are that the plaintiff-respondent No.1-Sanjay Garg son of late Sh. Chhabildas Garg filed a suit for declaration with consequential relief of permanent injunction against Dhananjay Garg son of late Sh. Chhabildas Garg and Smt. Mishri Garg @ Mishri Devi wife of late Sh. Chhabildas Garg. The prayer in the suit reads as follows :

“It is further prayed that a decree for permanent injunction in favour of the plaintiff against the defendants restraining the defendant no.1 not to create any hindrance in the peaceful possession of the plaintiff in any manner and further the defendant no.1 be

restrain not to alienate the suit property in any manner to any person may kindly be passed in favour of plaintiff and against the defendant no.1 and further the defendant no.3 may kindly be restrain to transfer the plot/premises in the name of defendant no.1 on the basis of transfer deed dated 10.09.2016 or in the name of any other person in any manner in the interest of justice.”

3. During the pendency of the suit, an application was filed for impleading the other siblings i.e. Vijay Garg and Rohini Garg being necessary and proper parties. The reply was filed to the said application. The application was dismissed vide impugned order dated 17.07.2023. Hence, the present revision petition.

4. Learned counsel for the petitioner would contend that it is not only the relinquishment deed dated 28.05.2015 and transfer deed No.1733 dated 10.09.2015 executed by Smt. Mishri Garg @ Mishri Devi in favour of defendant No.1 which have been challenged, the plaintiff has also asked for a decree of declaration to the effect that he be declared as owner in possession to the extent of share of 1/6th in the suit property. Learned counsel for the petitioner would further contend that all the brothers and sisters would have a share in the property as the said property was owned by the father which was relinquished by all the siblings in favour of Smt. Mishri Garg @ Mishri Devi-defendant No.2 in the suit which was subsequently transferred in favour of defendant No.1-Dhananjay Garg (petitioner herein).

5. *Per contra*, learned counsel for the respondents would contend that the said persons are not necessary and proper parties and that the present

application has been filed only to delay the proceedings.

6. I have heard the learned counsel for the parties.

7. In the present case the plaintiff-respondent No.1 has not only challenged the relinquishment deed dated 28.05.2015 and transfer deed No.1733 dated 10.09.2015 but has also sought a declaration to the effect that he is owner in possession to the extent of 1/6th share. In case the relinquishment deed and the subsequent transfer deed are set aside, all the children of late Sh. Chhabildas Garg would have a right in the property. In view thereof, the impugned order dated 17.07.2023 is set aside and the application filed under Order 1 Rule 10 of CPC is allowed. The parties would be at liberty to implead the other legal representatives. However, since the trial has been pending since 2017, the Trial Court is requested to expedite the hearing and not grant any unnecessary adjournments to any of the parties.

8. Disposed off accordingly. Pending applications, if any, also stand disposed off.

22.02.2024
Ankur

(ALKA SARIN)
JUDGE

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