

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024.PHHC.164446-DB



(122)

CWP No.26419 of 2024 (O&M)
Decided on :10.12.2024

Jitender

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Abhishek Jindal, Advocate &
Mr. Mithun, Advocate for the petitioner (s).

Mr. Saurabh Mago, DAG, Haryana.

Mr. Rakesh Dhiman, Advocate for caveator-respondent No.5.

G.S. Sandhawalia, J.(Oral)

CM-19960-CWP-2024

Application for placing on record Annexures P-17 to P-19, is
allowed, subject to just exceptions. Said annexures are taken on record.
Office to append the same at the relevant place.

CM stands disposed of.

CWP-26419-2024

1. Challenge in the present writ petition filed under Articles 226/227
of the Constitution of India is to the action of the respondents to cancel the
sale deed 29.03.2024 (Annexure P-1), vide order dated 16.08.2024

(Annexure P-13), wherein the office of the Deputy Commissioner, Gurugram had written to the Sub-Registrar, Sohna to do the needful and to lodge the FIR against the concerned persons.

2. It is not disputed that by order dated 29.08.2024 (Annexure P-16) the cancellation deed had been made on the ground that there was a fraud regarding the General Power of Attorney given by respondent No.7-Jagdeb Singh. The power of attorney had allegedly been executed by respondent No.5-Sandeep, the landowner in favour of said respondent No.7. The land in question is measuring 6 kanals 13 marlas 7 Sarsai is situated in village Bhondsi, Tehsil Sohna, District Gurugram. The land in dispute was further clubbed with the portion of land belonging to one Smt. Parkasho Devi, who is stated to be the mother of the petitioner, to take the total land to 8 kanals, on account of various government instructions, which would ensure that there is no NOC required, if the land is one acre and above and alienated by the disputed sale deed dated 29.03.2024.

3. It is also a matter of record that FIR No.274 dated 06.09.2024 (Annexure P-17), under Sections 420, 467, 468, 471, 120-B IPC or Sections 318, 338, 336, 340 & 61(2) of BNS, 2023, registered at Police Station Bhondsi, Gurugram, Haryana had also been lodged against the petitioner, apart from other accused. The petitioner has also filed a Civil Suit bearing No.365 of 2024 on 04.07.2024 (Annexure P-3) seeking declaration that he is owner in possession on the basis of the said sale deed dated 29.03.2024 (Annexure P-1) and challenging notice dated 01.07.2024. The State of Haryana and the Tehsildar, Sohna are also impleaded as defendants in the said civil suit, which is still pending. The injunction as such has been declined on 06.11.2024 (Annexure P-18) by the Civil Judge (Junior Division), Sohna. The petitioner

has also secured an order of anticipatory bail in his favour granted by this Court in CRM-M-50788-2024 dated 09.10.2024 (Annexure P-19).

4. Keeping in view the fact that the disputed questions as such would arise regarding the manner in which the General Power of Attorney was executed and also whether the complainant or his agent has received the requisite consideration, since it was denied by the said complainant. Apparently, there was another sale transaction of a smaller piece of land of 110 square yards, which apparently respondent No.7-Jagdeb Singh wanted to purchase and it transpires from the written statement that even a cheque of Rs.9 lakhs dated 23.02.2024 was issued.

5. Keeping in view the above, we are of the considered opinion that having initiated a civil suit for declaration on the basis of the sale deed dated 29.03.2024 (Annexure P-1) and having suffered an order whereby the injunction had been declined to him by the Trial Court, resorting to the jurisdiction of this Court would not be warranted, keeping in view the fact that disputed questions of fact would arise, as it is the settled principle of law that the Writ Court will not go into such disputed questions. The parties have already exercised their option to approach the Civil Court for their rights and evidence has to be led and the factual matrix has to be proved, as to whether the General Power of Attorney registered in U.P. is genuine, which is ground for the cancellation of the sale deed. The petitioner had also challenged the initial show cause notice dated 01.07.2024 issued by the authorities, which has led to subsequent recommendation dated 16.08.2024 (Annexure P-13) by the Deputy Commissioner to the Sub-Registrar, Sohna leading to the culmination of the cancellation of sale deed. Therefore, once the civil suit is pending and there is an alternate and efficacious remedy available to the petitioner and the

factum that the person has been cheated, who has also lodged an FIR is also apparent. The petitioner having secured his liberty in his application for anticipatory bail, now cannot use the discretionary jurisdiction of this Court to challenge the said action of the authorities.

6. In such circumstances, we decline to get into the thicket of disputed facts and the writ petition is, accordingly, dismissed with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

10.12.2024
Naveen

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No