

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

2024:PHHC:019210

1. CR-210-2019 (O&M)
Date of decision: 12.02.2024

BHUPINDER SINGH ..Petitioner

Versus

GURMUKH SINGH AND OTHERS ..Respondents

2. CR-267-2023

GURMUKH SINGH & ORS. ..Petitioners

Versus

BALJINDER SINGH AND ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshay Bhan, Sr. Advocate
with Mr. Santosh Sharma, Advocate
for the petitioner.

Mr. Rakesh Chopra, Advocate
and Mr. Jashan Chopra, Advocate
for respondent No.1 and 2.

ANIL KSHETARPAL, J(Oral)

1. These two connected revision petitions between the parties arising from the same suit have come up for disposal.

CR-210-2019

2. In CR-210-2019, the defendant No.1 assails the correctness of the interlocutory order passed by the trial Court while allowing application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908, which in appeal has been upheld by the First Appellate Court. The plaintiffs are sons of Sh. Jaswant Singh and Smt. Jaspal Kaur. There is a judgment and decree dated 25.09.1969 in favour of Smt. Jaspal Kaur. After the death of Smt. Jaspal Kaur, the property was inherited by her husband Sh. Jaswant Singh and thereafter, it was inherited by the plaintiffs, who are children of

Smt. Jaspal Kaur and Sh. Jaswant Singh. Moreover, Sh. Milkha Singh has executed a sale deed in favour of Smt. Jaspal Kaur. Thus, both the Courts have *prima facie* found that the plaintiffs are in possession of the property.

3. The learned Senior counsel representing the petitioner contends that the suit filed by the plaintiffs is not maintainable because they are claiming to have become owner of the property by efflux of time as the mortgage was not redeemed. He submits that such suit is not maintainable in view of the judgment of the Hon'ble Supreme Court passed in **Singh Ram (deceased) through LRs Vs. Sheo Ram and others, AIR 2014 SC 344.**

4. This Court has considered the submissions of the learned counsel representing the parties.

5. At this stage, the Court is not required to opine on the merits of the case. In this case, both the Courts have concurrently found that the plaintiffs are entitled to temporary injunction during the pendency of the suit. Needless to observe that any *prima facie* observation made by the Court while deciding the temporary injunction application cannot be construed as an expression on the merits of the case.

6. With these observations, CR-210-2019, is dismissed.

CR-267-2023

7. In CR-267-2023, the plaintiff assails the correctness of order passed by the trial Court on 28.10.2021, while allowing an application filed by the subsequent purchaser with a prayer to implead him as party defendant in the suit. The trial Court has allowed the application. The applicant has purchased the property by a registered sale deed from defendant No.1-Sh.

Bhupinder Singh.

8. The learned counsel representing the plaintiff contends that such sale of the property is in violation of the injunction order and therefore, he should not be allowed to contest the case.

9. This Court has considered the submissions of the learned counsel representing the parties.

10. The defendant No.1-Sh. Bhupinder Singh may be liable for penalty for violating the injunction order, however, the respondents are purchaser of the property for valuable consideration. They are required to be impleaded as party in order to decide the dispute comprehensively. Any disposal of the property during the pendency of the suit makes the aforesaid sale subservient to the subject of the suit. Hence, the rights of the respondents shall be decided in the suit. Hence, they are required to be heard.

11. Keeping in view the aforesaid discussion, CR-267-2023, is dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

February 12th, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*