

140 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32870-2024 (O/M)
Date of decision : 05.12.2024

Smt. Durga Petitioner(s)

Versus

State of Haryana and others Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Alok Mittal, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Smt. Durga) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, seeking a writ in the nature of mandamus for directing official respondents to make revenue entries in the sale deeds being issued after 08.04.2024 in pursuance to the directions issued by this Court in Civil Revision No. 2113 of 2024, vide order dated 08.04.2024 (Annexure P-9).

2. Briefly, petitioner alongwith others is stated to have filed a civil suit (Annexure P-1), seeking declaration that they are owners in possession of land ad-measuring 60 kanal, situated at village Mubarakpur, Tehsil Pataudi, District Gurugram. A further prayer has been made for declaring the Mutation No. 611 dated 21.01.1964 and also sale deed No. 1936 dated 04.09.2019 alongwith mutations on the basis of

inheritance as illegal, null and void. Alongwith aforesaid civil suit, an application for stay under Order 39 Rule 1 CPC was also filed.

2.1 It transpires that the aforesaid stay application filed in the civil suit came to be dismissed by learned Additional Civil Judge (Senior Division), Pataudi, vide order dated 19.07.2023 (Annexure P-7). Even an appeal filed against aforesaid order dated 19.07.2023 (Annexure P-7) was also dismissed by learned Additional District Judge, Gurugram, vide order dated 28.02.2024 (Annexure P-8).

2.2 It transpires that thereafter the petitioner preferred a civil revision petition (CR-2113-2024) before this Court, which came to be disposed of by this Court, vide order dated 08.04.2024 (Annexure P-9) by observing as under :-

“2. After arguing for some time, learned counsel for the petitioner submits that the petitioner would be satisfied if entry is made in the revenue record regarding pendency of the suit.

3. The civil suit is pending. Without commenting anything on the merits of the case, let entry regarding pendency of the case be made in the revenue record by the revenue authorities.

4. Present revision petition stands disposed of accordingly.

5. If respondents are not satisfied with this order, then they can challenge this order by filing application within 30 days.”

2.3 It appears that thereafter respondents in the revision petition, filed an application (CM-8586-CII-2024 in CR-2113-2024), seeking recalling of order dated 08.04.2024 (Annexure P-9), whereby the revenue authorities were directed to make entries regarding pendency of civil suit

in the revenue records and the said application came to be decided, vide order dated 15.05.2024 (Annexure P-11), which reads as under :-

“ This application has been moved for recalling the order dated 08.04.2024 (Annexure A-1) whereby Revenue authorities were directed to make entry regarding pendency of civil suit.

Learned counsel for the respondent submits that when respondent did not get any relief, the respondent prayed for making entry regarding pendency of civil suit in the revenue record and the same is giving impression that stay is there.

I have heard the submissions made by learned counsel for the respondent.

The order dated 08.04.2024 is as under :-

“1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 28.02.2024 (Annexure P-10) passed by learned Additional District Judge, Gurugram and the order dated 19.07.2023 (Annexure P-7) passed by Additional Civil Judge (Senior Division), Pataudi, whereby the application under Order 30 Rule 1 and 2 CPC filed by the petitioner-plaintiff, has been dismissed.

2. After arguing for some time, learned counsel for the petitioner submits that the petitioner would be satisfied if entry is made in the revenue record regarding pendency of the suit.

3. The civil suit is pending. Without commenting anything on the merits of the case, let entry regarding pendency of the case be

made in the revenue record by the revenue authorities.

4. Present revision petition stands disposed of accordingly.

5. If respondents are not satisfied with this order, then they can challenge this order by filing application within 30 days.”

Since it is a fact that civil suit is pending and the said fact is ordered to be incorporated in the revenue record and it cannot be considered as illegality. The order is very specific that entry be made and it cannot give any impression that there is any stay.

The present application is without merits and dismissed.”

2.4 It is the case of the petitioner that despite the entry having been made in the revenue records, private respondents are alienating the suit properties and, therefore, the petitioner had submitted a representation (Annexure P-13) to the revenue authorities with a prayer to incorporate the factum of pendency of civil suit in the sale deeds at the time of their registration; however, no heed has been paid to said representation (Annexure P-13). Hence, the instant civil writ petition.

3. Heard.

4. By way of instant civil writ petition, petitioner is seeking a direction to revenue/registering authorities to incorporate the factum of pendency of civil suit in the sale deeds as well. Apparently, a prayer for stay made by the petitioner in the civil suit has been declined upto this Court, vide order dated 08.04.2024 (Annexure P-9), although the revenue authorities have been directed to make entry in the revenue records regarding the factum of pendency of the civil suit. The said direction was

issued by this Court, so as to make the buyer aware that the land in question is subject matter of litigation and any prospective buyer can take a conscious decision to purchase such land with the knowledge of pending litigation. Once the aforesaid entry has already been incorporated in the revenue records, it is not understood as to what purpose would be served by directing revenue/registering authorities to incorporate the factum of pendency of civil suit in the sale deeds as well. It is well settled that power under Article 226 of Constitution of India is discretionary and the same will be exercised only in furtherance of interest of justice and not merely on making out of legal point. It is also an established rule that this Court in exercise of power under Article 226 of Constitution of India would not issue futile writ.

5. In the aforementioned facts and circumstances, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed.

6. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

05.12.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No