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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1132-2025(O&M)

Date of decision:-07.03.2025

Herwinder Kaur

...Petitioner

Versus

Jaswinder Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.P. Garg, Advocate
for the petitioner.

Mr. R.S. Manhas, Advocate
for the respondents.

SUVIR SEHGAL, J.(ORAL)

1. By way of instant revision petition filed under Article 227 of the Constitution of India, petitioner/plaintiff has approached this Court assailing order dated 04.01.2019, Annexure P5, as well as appellate order dated 06.11.2024, Annexure P6, whereby an application filed by her under Order 39 Rules 1 & 2 has been dismissed.

2. Mr. S.P. Garg, counsel for the petitioner submits that a suit, Annexure P1, has been filed by the plaintiff for partition of immovable



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property. He claims that plaintiff's father Bachan Singh inherited agricultural land and sold to M/s Bajwa Developers Ltd. and out of the amount received, immovable properties were acquired in Chandigarh and Kharar. He submits that as the plaintiff is entitled to 1/3rd share in the properties, a suit for declaration has been filed along with an application for grant of interim injunction. Counsel asserts that by order dated 06.07.2018, Trial Court directed the parties to maintain status quo, but after contest, the application was dismissed vide impugned order, Annexure P5, which has been upheld in appeal vide order, Annexure P6. It is his contention that as the properties are ancestral, respondents be restrained from alienating them during the pendency of the litigation.

3. While supporting the orders under challenge, Mr. R.S. Manhas, counsel for the respondents has specifically denied the sale of inherited property to the developer. He urges that the agreement to sell relied upon by the petitioner was never entered into. It is his stand that properties were purchased and construction has been carried out by the defendants from their own funds.

4. I have heard counsel for the parties and considered their respective submissions besides examining the documents appended with the paper-book.

5. The core question to be considered by the Trial Court is as to whether land was inherited by late Bachan Singh from his ancestors or it was self acquired. The stand of the plaintiff that the inherited land was sold to M/s Bajwa Developers and immovable properties have been acquired out of the sale consideration, but this has been specifically



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denied by the defendants. Reliance has been placed by the defendants upon sale deeds to claim that they purchased the properties with funds from their own sources. Onus lies on the plaintiff to prove the assertion made in the plaint. There is no document on the record to show that the property in the hands of Bachan Singh was ancestral. Even the agreement to sell dated 14.06.2010, allegedly entered into with M/s Bajwa Developers Ltd., is yet to be proved. In any case, an agreement to sell does not confer any title and cannot be relied upon to contend that the agricultural land has been sold.

6. Furthermore, it deserves to be noticed that a residential house and a booth purported to have been acquired by the defendants are situated in Union Territory, Chandigarh. Rule 14 of the Chandigarh (Sale of Sites and Buildings) Rules, 1960, provides that fragmentation of any site or building in Chandigarh, is not permissible. In view of the specific bar, the suit for partition of the Chandigarh properties may not maintainable. Petitioner has failed to show a prima facie case. Balance of convenience is also not in her favour. This Court does not find any perversity or illegality in the orders passed by both the Courts below.

7. Finding no merit in the petition, it is dismissed with no order as to costs.

8. It is clarified that Trial Court shall adjudicate the suit uninfluenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

07.03.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No