



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.2800 of 2022 (O&M)

Date of Order:15.02.2025

Davinder Sharma

.Petitioner

Versus

Narender and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Surinder Singh, Advocate
for the petitioner.**

**Mr. Rahil Mahajan, Advocate
Mr. Arjun Dosanj, Advocate
for the respondents.**

ANIL KSHETARPAL, JUDGE (Oral)

1. The petitioner before this court has filed a suit for grant of decree of permanent injunction restraining the defendants from interfering in his actual physical and cultivating possession of 12 kanals land, which is pending before the trial court.

2. The application filed by the petitioner for grant of temporary injunction has been dismissed by both the courts below. In substance, it is the case of the petitioner that he was previously put in possession of land falling in Khewat no.48 and 49, vide mortgage deed dated 20.03.2002. Subsequently, the defendants' father who failed to re-pay the amount entered into an agreement to sell. Subsequently, he became dishonest forcing the plaintiff to file suit for specific performance of the agreement to sell which was decreed. The appeal against the same was also dismissed. Ultimately, the sale deed was executed through the help of the court on 18.07.2018. The



petitioner continued in possession of the property. The entire property is joint. There is confusion created by the respondents' father with respect to identification of the land.

3. It is contended that during the period of COVID when the petitioner was confined in Chandigarh, his paddy crop was destroyed by the defendants. He draws the attention of the court to the report of the revenue official dated 07.07.2000, to this effect.

4. Learned counsel representing the respondents submits that the petitioner has purchased the property out of Khewat no.47 and not from Khewat Nos. 48 and 49. He submits that the petitioner is not a co-sharer in the aforesaid Khewats.

5. On 08.08.2023, the following order was passed:-

1. Present revision petition has been filed by the petitioner (plaintiff) against the concurrent finding given by the Courts below, vide which, the application filed under Order 39 Rule 1 & 2 CPC, was dismissed.

2. Counsel for the petitioner submits that in fact, vide mortgage deed dated 20.03.2002, the land falling in Khewat No.48 & 49, situated at village Khajuri, Tehsil Jagadhri, District Yamuna Nagar, was mortgaged by Lakhan Singh (father of respondents/defendants) with the plaintiff (petitioner herein). When the mortgager – Lakhan Singh failed to pay back the amount borrowed by him, he executed an agreement to sell dated 26.11.2002, resulting into the filing of a civil suit by the plaintiff, which was decreed on dated 05.05.2011. Thereafter, first appeal filed by Lakhan Singh (father of respondents/defendants) was also dismissed. All this resulted in execution of a valid sale-deed dated 18.07.2018, through the Executing Court, which has



never been challenged by the respondents/defendants, even after the death of their father – Lakhan Singh.

3. Further submits that in the land sold to the petitioner/plaintiff vide sale-deed dated 18.07.2018, rice crop has been sown, which has now been destroyed by interfering by the respondents/defendants. In regard to the said fact, there is a report prepared by the Halqa Patwari also, which is appended with the present revision petition as Annexure P-1.

4. Counsel submits that although, it appears that by playing fraud, possession was handed-over to the petitioner/plaintiff, of the same size of area, which was subject matter of the sale-deed, but in a different Khasra number than the one depicting in the sale-deed. However, he submits that in any case, status of being co-sharer of the petitioner/plaintiff cannot be disputed by the respondents/defendants, which is based upon the sale-deed dated 18.07.2018, executed by their father through the Court.

5. Notice of motion for 11.12.2023.

Meanwhile, status quo in regard to the possession would be maintained.”

6. The learned counsel representing the petitioner submits that he was delivered possession of 12 kanals land and he is not in possession of area in excess of 12 kanals.

7. Per contra, the learned counsel representing the respondents submits that the petitioner has not challenged the correctness of the sale deed executed in his favour.

8. This court has considered the submissions of the learned counsel representing the parties.

9. The sale deed in favour of the plaintiff was executed by the



court pursuant to decree for specific performance of the agreement to sell. The defendants do not dispute its correctness. The only dispute is with regard to identification of land which was handed over to the plaintiff pursuant to the mortgage deed which continued to be in his possession.

10. Keeping in view the aforesaid facts, it is considered appropriate to continue the interim order passed on 08.08.2023, during the pendency of the suit.

11. The learned trial Court is requested to make sincere endeavours for expeditious disposal of the suit.

12. The plaintiff has also filed an application for partitioning the joint property. The learned Assistant Collector First Grade, Jagadhri, is requested to make sincere endeavours for concluding the partition proceedings.

13. Disposed of accordingly.

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

(ANIL KSHETARPAL)
JUDGE

February 15, 2025

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