
(2014) 11 P&H CK 0201
In the Punjab And Haryana At Chandigarh
Case No : CR No. 8078 of 2014 (OandM)

Raj Kumar Bhatia

APPELLANT

Vs

General Public

RESPONDENT

Date of Decision : 29-11-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11
Succession Act, 1925 — Section 192, 192(1), 193, 272

Citation : (2014) 11 P&H CK 0201

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Advocate : Ajay Jain, Advocate for the Appellant

Judgement

Jaswant Singh, J.—Petitioner-Raj Kumar Bhatia is in revision aggrieved against the order dated 14.11.2014 passed by the learned District Judge, Chandigarh whereby his petition under Section 192(1) read with Section 272 of the Indian Succession Act, 1925 for issuance of directions to the respondents not to seize the property/dispossession of the petitioner from the property bearing House No. 1149, Sector 8-C, Chandigarh has been dismissed on the application under Order 7 Rule 11 CPC filed by the respondent no.4-Renu Mohan.

2. Briefly the facts of the case are that the petitioner-Raj Kumar Bhatia is a practicing Advocate in the Punjab and Haryana High Court, Chandigarh. He is stated to have come across Ms. Meenu Vaid daughter of Sh. Gurcharan Dass Vaid, resident of House No. 1149, Sector 8-C, Chandigarh (for short the suit property) in March 2011 while looking for a house on rent. The said Ms. Meenu is stated to have expressed her desire for executing a Will regarding the house in favour of one J.S. Virgi respondent no.6. Accordingly, it is stated that the petitioner scribed the Will dated nil. The said Ms. Meenu Vaid died on 21.3.2011. It is averred that the suit property was originally owned by Sh. Gurcharan Dass Vaid father of said Smt. Meenu Vaid, who died on 7.7.2004. Gurcharan Dass Vaid and Smt. Shanta Vaid(mother of Meenu Vaid) executed a joint registered Will in

favour of Ms. Meenu Vaid on 22.5.1987 and, therefore, Meenu Vaid became the sole owner of the property in question. Concededly, Gurcharan Dass continues to be recorded as a registered owner despite execution of the registered Will dated 5.5.1987. The petitioner has filed the present petition by alleging that in order to safeguard the property from unscrupulous elements who are trying to grab the property in question has filed the present probate case on 21.12.2012 before the learned District Judge, Chandigarh which has been dismissed vide impugned order.

3. Learned Counsel for the petitioner has argued that the learned Court has illegally dismissed the entire petition on the application under Order 7 Rule 11 CPC of Smt. Renu Mohan as at best the petition could be rejected. He has secondly argued that in the light of provisions of Sub Section 2 of Section 192, the application by the petitioner was maintainable, however, by ignoring the said provisions, the learned District Judge has illegally held that the petition was not maintainable at the instance of the petitioner. He has finally argued that once the Court below after following the procedure provided under Section 193 had proceeded to issue notice to the respondents on being satisfied that a cause of action had accrued, could not dismiss the petition without recording of evidence.

4. After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the opinion that the present petition is devoid of any merit and the same deserves to be dismissed. As far as the first argument of the learned Counsel for the petitioner is concerned, this Court is of the opinion that the argument is completely misplaced. This Court has not been able to reconcile itself with the fact as to what is the locus of the petitioner to maintain the petition under Section 192 read with Section 272 of Indian Succession Act. Concededly, the petitioner has only drafted the Will in question and he is neither the beneficiary nor the administrator under whose custody the Will has been kept instead claims to be only possessing the keys of the residential suit property. Although concededly it is nowhere explained as to how he has come about in possession of the keys of the said residential property. A petition under Section 192 read with Section 272 of the Indian Succession Act can be filed by only those persons who are claiming a right of succession and thus concerned with the property in question, albeit, even remotely. The application/petition can also be maintained by a person on behalf of the minor, or any disqualified party or absent party provided the said person is agent, relative or near friend of that party. Neither of the said conditions is fulfilled by the present petitioner so as to sustain the maintainability of the applicant/petition. Thus, the learned Court below has rightly dismissed the entire petition by invoking of provisions of Order 7 Rule 11 CPC that he has no locus standi to maintain the petition under Section 192 read with Section 272 of the Indian Succession Act.

5. The second argument raised by the learned Counsel for the petitioner has already been answered by this Court while answering the first question as the petitioner has not been able to show as to how he is representing any "absent"

person who has a interest in the property in question.

6. The Last argument raised by the learned Counsel for the petitioner is also devoid of any merit as the Court can at any stage during the proceedings dismiss the petition if satisfied that the ultimate result of the said petition/application would be a dismissal, therefore, even if notice was issued to the parties would not curtail power of the Court to pass the order of dismissal on its complete satisfaction based on material available on record although no evidence may have been led till that stage. Thus in the facts of the present case when the petitioner has no locus standi, this Court has no hesitation in holding that the learned lower Court had rightly dismissed the petition filed by the petitioner and allowed the application under Order 7 Rule 11 CPC of Smt. Renu Mohan. This Court has decided the present case purely on technical grounds which appeal to the Court and is not advertent to the merits of the case at all because the question of devolving of ownership upon any person who is entitled to succeed to the estate left behind by Smt. Meenu Vaid would have to be decided in appropriate civil proceedings. The concerned parties have to initiate proper proceedings in order to seek their claim over the property/properties left behind by Smt. Meenu Vaid (since deceased).

7. In view of the above, finding no merit in the present revision petition the same is hereby dismissed.