
(2013) 07 P&H CK 0586
In the Punjab And Haryana At Chandigarh
Case No : Case No. C.R. No. 3730 of 2013

Verender Kumar

APPELLANT

Vs

Dhanpat Ram and Another

RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2013) 07 P&H CK 0586

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : Vikram Singh, for the Appellant;

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Plaintiff Verender Kumar, by filing this revision petition under Article 227 of the Constitution of India, has assailed order dated 02.05.2013 (Annexure P-4) passed by the trial court, thereby dismissing application (Annexure P-2), filed by the plaintiff for framing of additional issues. The plaintiff has filed suit seeking declaration that the sale deed dated 05.09.2006, allegedly executed by defendant no. 2 in favour of defendant no. 1 regarding part of the disputed house, is void ab-initio. The plaintiff has also sought consequential relief of possession of the said property and also permanent injunction restraining the defendants from further alienating the same.

2. The plaintiff, in application (Annexure P-2), alleged that the plaintiff has pleaded in the plaint that the impugned sale deed is hit by doctrine of lis pendens and that the recitals mentioned in the sale deed are wrong and against true facts, and therefore, additional issues as mentioned in the application are required to be framed, on the aforesaid plea of the plaintiff.

3. Defendant no. 1, by filing reply (Annexure P-3), opposed the application and pleaded that the plaintiff has been delaying the trial of the case by moving one application after another. It was also pleaded that both the proposed additional

issues are covered by issue no. 1, already framed in the case.

4. Learned trial court, vide impugned order (Annexure P-4), has dismissed the application (Annexure P-2) filed by the plaintiff, who has therefore filed this revision petition to assail the said order.

5. Counsel for the plaintiff-petitioner reiterated that proposed additional issues arise from the pleading in the plaint, and therefore, the said issues are required to be framed. The contention is completely misconceived and untenable. Proposed additional issues are reproduced hereunder:-

a) Whether the impugned sale deed Vasika No. 3013 dated 05.09.2006 is hit by the rule of Lis Pendense on 05.09.2006 ? OPP.

b) Whether the recital mentioned in the sale deed Vasika No. 3013 dated 05.09.2006 is wrong and against the true fact ? OPP.

6. Issues no. 1 and 2 already framed in the suit are also reproduced hereunder:-

i) Whether plaintiff is entitled for relief of declaration as prayed for ? OPP.

ii) Whether plaintiff is entitled for relief of possession and for permanent injunction as prayed for ? OPP.

7. A perusal of issues no. 1 and 2 already framed in the suit reveals that the same are worded very widely and the same would cover proposed additional issues also. It has also been rightly so observed by the trial court in the impugned order. For the reasons aforesaid, I find that the application filed by the plaintiff has been rightly dismissed by the trial court. Impugned order of the trial court does not suffer from any perversity, illegality or jurisdictional error so as to call for interference by this Court in exercise of power of superintendence under Article 227 of the Constitution of India. The revision petition is meritless and is accordingly dismissed in limine.