

SUPREME COURT OF INDIA

Akriti Land Con Pvt.Ltd.

Vs.

Krishna Bhargava

C.A.No.....of 2017

(R.K.Agrawal and Abhay Manohar Sapre,JJ.,)

13.04.2017

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(Civil)No.16610-11 of 2015

1. Leave granted.

2. These appeals are filed by defendant No.6 against the order dated 29.05.2015 of the High Court of Judicature for Rajasthan, Jaipur Bench at Jaipur in Civil Misc. Appeal Nos. 1640 and 1641 of 2015 whereby the High Court set aside and quashed the order dated 10.04.2015 passed by the Additional District Judge No.4, Kota in Temporary Injunction Application bearing Civil Misc. Case No.112 of 2014 in Civil Suit No.89 of 2014 and Temporary Injunction Application bearing Civil Misc. Case No.37 of 2014 in Civil Suit No. 21 of 2014 whereby the injunction applications filed by the plaintiff/applicant (respondent No.1) were dismissed.

3. In order to appreciate the issue involved in these appeals, which lies in a narrow compass, it is necessary to state few relevant facts taken from the appeal paper books.

4. The appellant is defendant No. 6 whereas respondent No. 1 is the plaintiff and the remaining respondents are the defendants in the civil suits out of which these appeals arise.

5. The dispute, which is the subject matter of the civil suits, is between the family members of one Bhargava family, who are sisters, brother and the mother - being the legal representatives of Late Nandan Bhargava. The appellant is the purchaser of the suit land from some members of the family.

6. The dispute relates to agricultural land of 18 Bigha 11 Biswa in total bearing Khasra Nos. 68, 46, 51, 54, 53, 48, 50, 49 and 52 (now re-numbered as Khasra Nos. 92 to 111) situated at Village Khedli Purohit (Kota) Rajasthan and some houses situated at Jaipur/Kota as detailed

in the plaints (hereinafter referred to as the "suit property"). So far as these appeals are concerned, they relate to suit property only.

7. Late Nandan Bhargava was the original owner of the suit property. He died on 28.10.1980 leaving behind his wife, four daughters and one son. On his death, some legal representatives of Late Nandan Bhargava sold the suit land to the appellant. This gave rise to the dispute between the legal representatives regarding the extent of the share held by each legal representative, their exclusive possession over their share in the suit property, their rights to deal and sell the suit property etc.

8. Respondent No. 1, therefore, filed two civil suit being C.S No 21/2014 and C.S. No. 89 of 2014 in the Court of Additional District Judge No. 4, Kota against respondent Nos. 2 to 8 and the appellant herein. The suits are filed seeking therein the reliefs of declaration of title over the suit property, partition, cancellation of sale deeds and permanent injunction in relation to the suit property etc. In substance, the case of respondent No. 1 (plaintiff) is that she being one of the daughters of Late Nandan Bhargava is entitled to claim her 1/6th share in the suit property and is also entitled to be placed in possession of her exclusive share by effecting partition amongst all the co-sharer by meets and bounds because Late Nandan Bhargava (her father) died intestate. The plaintiff has also questioned the legality of the sale made by the other co-sharers (legal representatives) in favour of the appellant.

9. The defendants have denied the plaintiff's claim and justified the sale made by them. So far as the appellant is concerned, they alleged that they being the bona fide purchaser of the suit land for value without notice of any prior claim of any one, their title to the land acquired by sale deed is unimpeachable and thus legal. Apart from their defenses, the respective defendants have also taken several other pleas on points of law and facts in their written statements while opposing the suit which we do not consider it necessary to mention in detail here.

10. The plaintiff also moved two applications under Order 39 Rules 1 and 2 read with Section 151 of the Civil Procedure Code and sought temporary injunction against the defendants restraining the defendants from transferring or alienating the suit property, dispossessing the plaintiff and making any construction over the suit property etc. during the pendency of the suit.

11. The defendants opposed the applications on several grounds. The Trial Court vide order dated 10.04.2015 rejected the applications which gave rise to filing of the two Misc. Appeals by the plaintiff before the High Court.

12. The High Court by impugned order allowed the appeals and directed the parties to maintain status quo till final disposal of the suit. A further direction was given to the Trial Court to ensure final disposal of the suit within 9 months. Felt aggrieved, defendant No.6 is in appeals by special leave before this Court.

13. While issuing notice in these appeals to the respondents, this Court on 08.06.2015 passed the following order:

“Heard Dr. Abhishek Manu Singhvi, learned senior counsel appearing for the petitioner and Mr. Parag Tripathi, learned senior counsel appearing for respondent No.1. Issue notice. Mr. E.C. Agrawala, learned counsel accepts notice for respondent no.1. As an interim measure, the effect and operation of the common impugned order dated 29.05.2015, passed by the High Court of Rajasthan, Bench at Jaipur, shall remain stayed during the pendency of these petitions subject to the condition that the petitioner shall not transfer or create any third party rights in respect of thirty flats proposed to be constructed on the property in question. Further, the concerned trial court is directed to decide the suit pending between the parties as expeditiously as possible.”

14. We have heard the learned senior counsel for the parties at length and also perused the record of the case. Having heard, we are of the considered view that it would be just, proper and in the interest of justice that the civil suits out of which these appeals arise itself are disposed of on merits in accordance with law expeditiously as has been directed by the High Court in the impugned order. The reason is that if any observations are made by this Court while deciding the appeals on its merits, they would cause prejudice to the rights of the parties while prosecuting the civil suit on merit.

15. It is true that finding recorded while considering grant of injunction is always considered prima facie in nature and is confined to the disposal of such interlocutory proceedings. They do not influence the decision which is eventually rendered in the suit on merits as the same is rendered on the basis of evidence which is adduced in the suit. However, we feel that having regard to the issues involved in the suit and the nature of directions which we propose to pass, it is proper in this case not to record any categorical finding either way.

16. We, therefore, refrain from recording any categorical finding on any of the contentious issues arising in the case and which were vehemently pressed in service before this Court by the learned counsel in support of their case and accordingly direct the Trial Court to expedite the trial of the civil suits out of which these appeals arise preferably within one year as an outer limit on merits in accordance with law.

17. Needless to say, the Trial Court would not, in any manner, be influenced by any observation made by the High Court in the impugned order and by this Court and would decide the civil suits on merits strictly in accordance with law on the basis of pleadings and the evidence that may be adduced by the parties in support of their respective case in the suits.

18. As mentioned above, while issuing notice of these appeals to the respondents, this Court has passed an interim order on 08.06.2015. We accordingly direct that the order dated

08.06.2015 would continue to remain in operation till the suits are finally decided as directed above.

19. It is, however, made clear that the interim order dated 08.06.2015 would also be subject to the result of the civil suits and depending upon the outcome of the civil suits, the Trial Court will be at liberty to pass appropriate order of its modification, setting aside or revocation as the case may be.

20. With the aforesaid directions, the appeals are disposed of.