

IN THE COURT OF SHINKU KUMAR, PCS, CIVIL JUDGE,
JUNIOR DIVISION, AJNALA UID No. PB0571.

CNR No: PBASA0-000005-2018

CIS No: CS/01/2018

Amrik Kaur Vs. Guro

Present: Sh. M.S Riar Adv, Counsel for plaintiff.
Sh. Naresh Sharma Adv, Counsel for defendant.

Application under order 39 Rule 1 & 2.

ORDER:-

1. This order of mine shall dispose off an application under order 39 Rule 1 & 2 read with Section 151 CPC.
2. It is the case of the plaintiff that the suit property was the ownership of Major Singh Son of Revail Singh. Plaintiff Amrik Kaur was married with Major Singh i.e. son of the defendant. Major Singh has died on 29.08.2013 and after his death, mutation no. 1779 of inheritance of Major Singh was wrongly sanctioned in favour of defendant in sole share, which is illegal, null, void and is liable to be set aside. It is further submitted that after the death of Major Singh, plaintiff and defendant became the joint owners to the extent of ½ share each in the suit land. On the basis of illegal mutation no. 1779, defendant is threatening to interfere into the peaceful possession of

plaintiff over the suit property and to dispossess her from the suit property forcibly and illegally. The defendant is also threatening to alienate the suit property, which she has got no right to do so. It is further submitted that many of times, plaintiff has requested the defendant to admit her claim as owner in possession over the suit property and not tried to interfere into her peaceful possession and also not tried to dispossess the plaintiff from the suit property. Plaintiff also requested the defendant not to alienate the suit property by way of sale, mortgage, lease, transfer etc or in any manner, but the defendant has refused to do so. Lastly, it is prayed that defendant be restrained from alienating the suit land and from interfering into the possession of plaintiff. Defendant also restrained from dispossessing the plaintiff from the suit property and prayed for allowing the application.

3. On the other hand, defendant appeared and filed the written statement taking the preliminary objections of maintainability, locus standie, clean hands, suppression of material facts, cause of action, estopple, valuation, non-joinder and mis-joinder. It is submitted that neither the plaintiff has any concern whatsoever with Major Singh Son of Rawail Singh nor the son of replying defendant has performed marriage with plaintiff. The plaintiff is very clever and cunning

woman. She is habitual of grabbing of property of innocent persons. In fact, plaintiff Amrik Kaur is the wife of Naranjan Singh, R/o Village Arlipan, Distt. Gurdaspur, with whom, she has matrimonial dispute. She has left the company of her husband Naranjan Singh and thereafter, started living with Satnam Singh Son of Dalip Singh, R/o Village Sialka, Tehsil and Distt. Amritsar and is still residing there as his wife. It is further submitted that plaintiff is habitual of preparing false and frivolous identity documents relating to the persons, with whom, she has started living with malafide intention to grab their properties. On merits, it is submitted that plaintiff is residing with Satnam Singh Son of Dalip Singh and also prepared her Identity Card at the residence address of Satnam Singh being his wife, which clearly shows the intention of plaintiff to cheat the innocent persons. It is further submitted that neither plaintiff has got any concern whatsoever with deceased Major Singh nor she is the widow of Major Singh. Major Singh never conducted any marriage with the plaintiff during his life time. It is further submitted that replying defendant being sole owner of the suit property, has got every right to deal with the suit property in what manner, as she likes. Remaining averments, made in

the plaint, more or less denied and request is made for dismissal of the application.

4. I have heard Ld. Counsels for both the parties and with their able assistance gone through the case file carefully.

5. It is well settled that in alienation of the disputed land during the pendency of a civil suit shall be hit by doctrine lis-pendense. However, from the facts and circumstances of the case, the Court is of the considered opinion that in order to protect the interest of the third party (proposed vendee) and in order to avoid multiplicity of litigation between the parties, a clear recital of pendency of this suit should be made in the sale deed. Consequently, the application in hand stands disposed off with a direction that if in case, the defendant intends to sale away the suit property or any part there of during the pendency of this suit, a clear recital shall be made in the sale deed depicting thereby that the vendee(s) has(ve) been made aware and appraised the pendency of this suit and further, this Court shall be duly intimated with regard to such alienation while simultaneously providing a copy of the sale deed executed by the defendant qua the suit land and the name(s) of such vendee(s) with complete percentage and address shall

also be furnish in court within 15 days from the date of execution of such sale deed. Application disposed of, accordingly.

6. However any observation made by me while disposing of this application shall not be construed as expression of an opinion on the merits of the main case.

Pronounced in Open Court
Dated: 01.12.2018

Shinku Kumar, PCS
Civil Judge, Jr. Division
Ajnala, UID No. PB0571.

I attest to the accuracy and
authenticity of this document.
Typed by: Avadh Joshi
Stenographer G-II