

Kulvinder Suri & Ors. Vs. Chattar Singh & Ors.

Civil Suit No.20 of 2023

14.05.2025 Present: Mr. Neeraj Gupta, Sr. Advocate with Mr. Pranjal Munjal, Advocate, for the plaintiffs.

Mr. Y.P. Sood, Advocate, for defendants No.1 to 4.

Mr. B.N. Sharma, Advocate, for defendants No.5 and 6.

OMP No.254 of 2023

The suit, in the case at hand, was initially filed against defendants No.1 to 4, seeking a permanent prohibitory injunction restraining them from selling, transferring, alienating or encumbering the suit property in any manner or changing the nature of the suit property.

In the suit so filed, it has been averred that defendants No.1 to 4 had held out to the non-applicants/plaintiffs that they were ready and willing to sell the suit land, which was owned and possessed by them along with other co-sharers. It has further been averred that defendants No.1 to 4 had categorically held that they were competent to negotiate on behalf of the co-owners of the suit land. The rate for selling of land was alleged to have been fixed at Rs.21 lacs per bigha. Token money receipt whereof has been obtained and placed on record. As per the receipt, an advance of Rs.20 lacs had been paid to defendants No.1 to 4, receipt thereof reflects the same.

Other than the aforesaid, payment schedule was determined on the date of making of the earnest money payment, whereby 30% was to be paid by 15.04.2023, 20% by 15.10.2023, 20% by 14.04.2024 and balance 30% by August 2024. However, on 13.03.2024, non-applicants/plaintiffs came to know that defendants No.1 to 4 had been negotiating with other brokers qua the sale of the suit land.

In the aforesaid backdrop, a legal notice dated 13.03.2023 to desist the defendants No.1 to 4 from selling the land was got issued by non-applicants/plaintiffs. The suit, in the case at hand, was filed on 23.03.2023. On 06.04.2023, interim order to the following effect was passed:-

***Civil Suit No. 20 of 2023
Issue notice to the defendants, returnable for 24th May, 2023. List on 24th May, 2023.***

***OMP No. 146 of 2023
Notice in above terms.***

***OMP No. 145 of 2023
Notice in above terms. Till further orders, the nonapplicants are restrained from entering into any agreement of sale with third party/parties, entity/entities or to deal with the suit land entered in Khasra No. 524, measuring 19 bighas 8 biswas, Khasra No. 607/453, measuring 77-18 bighas, Khasra No. 597/522, measuring 54-14 bighas, Khasra No. 525, measuring 3 biswas and Khasra Nos. 447, 446, 723/445 and 722/445, measuring 19 bighas, total approximately 150 bighas, situated in Mauja Anhench, Hadbast No. 69/189, Tehsil and District Solan, H.P. in any manner by holding negotiations or by doing any other acts with third party as also from selling, transferring, alienating, encumbering or creating a third party interest thereupon. However, this order shall be subject to compliance of provisions of Order 39, Rule 3 of the Code of Civil Procedure by the applicants/plaintiffs.***

OMP No. 147 of 2023

This application is disposed of with the direction that on the requisite amount being paid by the applicants/plaintiffs with the Registry of this Court, the documents in question will be translated by the Official Translator. Downloaded copy of this order is valid for compliance.

In the aforesaid facts and attending circumstances, an application for impleadment was filed on behalf of present applicants i.e. defendants No.5 and 6. In the said application, it was averred that out of the suit land, they were the exclusive owners and in possession of Khasra Nos.446, 447 and 723/445. Relevant revenue record was appended along with in this regard (Nakal Jamabandi for the year 2013-2014).

Based on the aforesaid, vide order dated 19.09.2023, the present applicants had been impleaded as party defendants No.5 and 6. Thereafter, the present application for modification of the interim order has been passed.

Heard counsel for the parties.

Before any purchase of land is made in terms of the principle "***Caveat Emptor***" a buyer is expected to ascertain the details qua the purchase being sought to be made. The revenue record placed on record along with the application for impleadment filed by the present applicants (Jamabandi for the year 2013-14) showing them to be owners in possession of Khasra Nos.446, 447 and 723/445 seems to have not been noticed by the non-

applicants/plaintiffs. From a perusal of the suit conspicuous by absence is a Power of Attorney authorizing defendants No.1 to 4 to act on behalf of defendants No.5 and 6 i.e. the present applicants with respect to selling of land owned and possessed by them. The earnest money paid is nowhere shown to have reached the pockets of the present applicants i.e. defendants No.5 and 6. No negotiation inter se the non-applicants/plaintiffs and the present applicants is said to have occurred.

In view of the aforesaid, interim order dated 06.04.2023 is modified to the extent that the same shall not apply to lands owned and possessed by the present applicants i.e. Khasra Nos.446, 447 and 723/445, as no prima facie case for grant of injunction has been made out against the present applicants. Balance of convenience lies in favour of the applicants and against the non-applicants/plaintiffs. No grave irreparable loss shall be caused to the non-applicants/plaintiffs, if in case injunction is not granted in their favour against the present applicants, which cannot be compensated in terms of money.

In view thereof, application is allowed in the aforesaid terms. Application stands disposed of.

(Bipin C. Negi)
Judge

14th May, 2025
(Gaurav Rawat)