

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 1112 of 2015 (O&M)
Date of decision: 21.5.2015

Ishwar and others

.. Petitioners

v.

Asha Ram and others

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Chanderhas Yadav, Advocate for the petitioners.
Mr. Anil Rathee, Advocate for the respondents.

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Rajesh Bindal J.

The plaintiffs are before this court impugning the order dated 21.1.2015, passed by the learned court below, whereby the application filed by them seeking police help to protect their possession on the suit property, which is being interfered with despite interim injunction in their favour, was dismissed.

The petitioners-plaintiffs filed a suit for permanent injunction claiming that they are in possession of the suit land for the last more than 40 years as *gair marusi*. Along with the suit, application under Order 39 Rules 1 and 2 CPC was filed. The learned court below finding *prima facie* case on the basis of the revenue record produced by the petitioners-plaintiffs granted injunction in favour of the petitioners. In appeal, the order passed by the trial court was upheld. The aforesaid orders attained finality, as no further challenge was made by the respondents. As the possession of the

petitioners was being interfered with, application was filed seeking police help. The same was declined by the court without passing any speaking order and recording any reason therefor. The submission is that the revenue record produced by the petitioners-plaintiffs clearly established their possession on the suit property, on the basis of which interim injunction was granted in their favour. In case, the same was being interfered with, the petitioners are certainly entitled to police help to protect the same. In support of the plea, reliance was placed upon the judgments of this Court in Gram Panchayat, Daroli Jat v. Smt. Lokesh Devi, 1999 (4) RCR (Civil) 313; Prithvi Raj v. Shamsheer Singh, 2002 (3) RCR (Civil) 58; Jogi Ram and others v. Smt. Kishni and others, 2009 (2) PLR 731; Sumer Chand and others v. Santosh Kumari and others, 2010 (1) Law Herald 246 and Nathu Ram v. Chhotu Singh, 2013 (1) RCR (Civil) 517.

On the other hand, learned counsel for the respondents submitted that the land in question is *shamlat deh*. There are 786 co-sharers. The respondents as such are not interfering into the possession of the petitioners-plaintiffs on the land in dispute, hence, there is no question of grant of police help. He further referred to the khasra girdawari, which established that the land in question was shown as banjar, hence, no one in possession thereof.

After hearing learned counsel for the parties, I find merit in the submissions made by learned counsel for the parties. It is not in dispute that in an application filed by the petitioners for interim injunction, the learned trial court found on the basis of the revenue record produced by the petitioners that they are in possession of the property in dispute, hence, the same was directed to be protected during the pendency of the suit. The order of the trial court was upheld in appeal filed by the respondents. The same attained finality as no further appeal was filed by the respondents. The application seeking police help to protect the possession was filed by the petitioners as their possession was sought to be interfered with. The same was declined by the learned court below by passing a cryptic order. This court had opined that where found appropriate, police help should be granted to enforce an injunction order. It had further been opined that it

would be a total misconstruction of the provisions of the Code of Civil Procedure to hold that in case an injunction order has been passed in favour of a party, he should wait till such time the same is flouted and then adopt the procedure provided under Order 39 Rule 2A CPC. There is a distinction between punitive action resulting from breach of an order passed by the court and enforcement of the order. Every person is duty-bound and under obligation to comply with and/or ensure compliance of the order passed by the court, unless varied or set aside. No one can be permitted to take law in his own hands and violate the orders passed. The courts having inherent powers should come to the rescue of a person, who in spite of an order of injunction is being threatened with forcible dispossession in violation of the order. The court under its inherent power can very well grant police help to prevent violation of the interim injunction.

In the case in hand, the stand of the petitioners is that despite interim injunction granted by the trial court restraining the respondents-defendants from interfering into their cultivating possession of the suit land, which was upheld by the learned lower appellate court, their possession was being interfered with by the respondents. The stand of the respondents is that in fact, the land is shamlat. There are 786 co-sharers. They are not interfering in the possession of the petitioners. Be that as it may, the grievance of the petitioners is that their possession, which has been directed to be protected by the courts below, vide interim injunction order passed in their favour, is sought to be disturbed. The court is not to wait till such time the injunction is violated and the party in whose favour the order has been passed is pushed to the wall only letting him to file application under Order 39 Rule 2A CPC seeking punishment for violation of the injunction order. Sanctity of the orders of the court has to be maintained. They are meant to be complied with in true letter and spirit. Any one aggrieved can avail of appropriate remedy against the order. Once it is final, none can be allowed to question the same by taking law into his own hands.

For the reasons mentioned above, the present petition is allowed. The impugned order passed by the court below is set aside. The application filed by the petitioners seeking police help to protect their

possession on the suit property is allowed.

(Rajesh Bindal)
Judge

21.5.2015
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(Refer to Reporter)