

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 1380 of 2014 (O&M)

Date of decision : 28.7.2015

Charan Jeet

.. Petitioner

versus

Hem Raj

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Bhupinder Ghai, Advocate, for the petitioner.
Mr. Aman Bahri, Advocate, for the respondent.

Rajesh Bindal, J.

Challenge in the present petition has been made by the petitioner-defendant to the orders dated 8.5.2013 and 24.1.2014 passed by the learned Courts below whereby in an application filed by respondent-plaintiff under Order XXXIX Rules 1 and 2 CPC, parties were directed to maintain status quo regarding the property in dispute.

The brief facts of the case are that the respondent-plaintiff filed a suit for permanent injunction restraining the petitioner-defendant from interfering into his peaceful possession and from raising any construction over the suit property. The property in question was purchased by the plaintiff from one Surtaya and Fattu vide registered sale-deed dated 10.10.1984, forming part of Khasra no.19. The defendant purchased another property which is adjacent to the suit property from Yuvak Kalyan Co-operative House Building Society in April, 2013. As the defendant was trying to raise construction over the suit property, which was allegedly exclusively owned and possessed by the plaintiff, he filed the suit. In the suit, the plaintiff filed application under Order XXXIX Rules 1 and 2 CPC for interim injunction, which was disposed of by the trial court directing the parties to maintain status quo regarding possession and construction over the disputed property vide order dated 8.5.2013. The appeal filed by the

petitioner against the order dated 8.5.2013 was dismissed by the learned Lower Appellate Court.

Learned counsel for the petitioner submitted that the petitioner is one of the members of Yuvak Kalyan Co-operative House Building Society. It had acquired 64 bighas of land in the year 1982 and carved out 244 plots. Plot no.21-D has been allotted to the petitioner vide allotment letter dated 24.1.1998, which is situated in khasra no. 20, whereas the property of the plaintiff-respondent is situated in khasra no. 19. The prayer is for dismissal of the application filed by the respondent-plaintiff under Order XXXIX Rules 1 and 2 CPC.

On the other hand, learned counsel for the respondent-plaintiff submitted that the petitioner is trying to encroach upon his land. The plaintiff has purchased the land vide sale-deed dated 10.10.1984 in khasra no. 19. The petitioner has been allegedly allotted plot no. 21-D, vide allotment letter dated 24.1.1998, in khasra no. 20. Earlier one Rakesh Kumar son of Rup Lal had also tried to encroach upon the land of the plaintiff and on this the plaintiff filed a suit, which is pending before the trial Court. As the petitioner is raising construction on the land purchased by the respondent-plaintiff, the learned Courts below vide impugned orders had directed the parties to maintain status quo, which cannot be said to be faulty. The prayer is for dismissal of the present petition.

After hearing learned counsel for the parties and perusing the paper book, I do not find any merit in the present petition. The respondent had purchased the land vide sale-deed dated 10.10.1984 and he has produced copy of jamabandi for the year 2005-06. The society which has issued allotment certificate to the petitioner had purchased 64 bighas land in the year 1982. Admittedly, the petitioner had purchased the plot on 24.1.1998 from the society, on which he has started construction. The dispute in the present case is regarding the place where the defendant is raising the construction. Whether it is in khasra no.19 or in khasra no. 20. This fact cannot be decided without there being any evidence. The parties have to lead evidence in support of their respective claims. Khasra no. 19 and Khasra no. 20 are adjacent to each other. Part of the property was allegedly transferred by the Society in favour of the petitioner later on i.e. 25.11.2013, whereas original allotment is dated 16.9.1984. The respondent

has submitted that another suit for the same property filed by him is also pending in the court for adjudication. The Courts below by directing the parties to maintain status quo regarding possession and construction over the suit property have not committed any error.

For the reasons mentioned above, I do not find any reason to interfere with the impugned orders. The petition is accordingly dismissed.

28.7.2015

vs

(Rajesh Bindal)
Judge