

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 6758 of 2015

DATE OF DECISION : October 12, 2015

Mukhtiar Kaur

..... PETITIONER(S)

VERSUS

Kulwant Singh

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. N.S. Sodhi, Advocate, for the petitioner.

...

- 1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO**
- 2. To be referred to the Reporter or not? YES/NO**
- 3. Whether the judgment should be reported in the digest? YES/NO**

...

ARUN PALLI, J. (Oral)

The present revision petition arises out of an application for an ad-interim injunction moved by the petitioner-plaintiff under Order 39, Rules 1 and 2, Code of Civil Procedure. As the trial court declined the injunction prayed for, vide order dated 16.10.2014, petitioner preferred an appeal against the said order, but that too was dismissed, vide order dated 20.07.2015.

This is how, plaintiff is before this court, in the instant revision petition.

In a suit filed by the plaintiff, she prayed for a decree for injunction restraining the defendants from interfering in the peaceful residential and cultivating possession over land measuring 7 kanals, on southern side, out of total land measuring 9 kanals 4 marlas, bearing Khewat No.336, Khatauni No.459, Khasra No.50 (9-4). On a consideration of the matter in issue, the conclusion recorded by the trial court, and affirmed by the appellate court, reads as thus:-

“6. Applicant has claimed her possession over the suit property bearing khasra No. 50. Copy of jamabandi has been produced on record by applicant herself, in which in owner:ship column 'abadi deh' has been mentioned and in cultivating column, 'Makbuja Bashindagan Deh' has been mentioned. This khasra number is comprising of land measuring 9 kanals 4 marlas and applicant has claimed her possession over the land 7 kanals, forming substantial part of above khasra number. If applicant is in possession of the suit property, then it has not been explained on record that why her name is not reflected in jamabandi.

7. Even status of the applicant being in possession has not been explained on record by applicant prima-facie. It has been claimed by applicant that property was allotted to husband of applicant. But no allotment letter has been produced on record. Learned counsel for the applicant has pointed out electricity bills and photographs produced on record, which has been admitted by respondents in their reply shows possession of applicant over suit property. But from perusal of these electricity bills and photographs it can be said that it has not been explained on record that how these bills and photographs relates to suit property. It has been

argued by learned counsel for the applicant that electricity connection has been admitted by respondents in their written statement/reply, but since the revenue record is against the claim of applicant being in possession over the suit property, this admission on part of respondents is not material. So, in view of above discussed circumstances, since, applicant has been failed to show prima facie case in her favor, which is condition precedent for granting of temporary injunction and accordingly, application filed by applicant/plaintiff is hereby dismissed.”

Ex-facie, plaintiff prayed for a decree for injunction simpliciter so as to injunct the defendants from causing any interference in her actual peaceful possession over land measuring 7 kanals, comprised in Khasra No. 50. Nothing was brought on record to show that the plaintiff was, indeed, in actual physical possession of the suit land that was comprised in the said number. No doubt, plaintiff brought on record certain photographs and electricity bills to show her possession over a property, but nothing was produced to substantiate further that the said property was, indeed, comprised in Khasra No. 50, qua which injunction was being claimed. Though, plaintiff claimed to be in possession as the suit property was allotted to her husband, but nothing was brought on record to substantiate even the said plea. All what was required to be seen by the learned trial court at that stage was a prima facie case, which apparently, plaintiff failed to prove.

That being so, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is,

accordingly, dismissed in limine.

Needless to assert, this order shall not constitute an expression of opinion on merits of the claim of either party.

Learned trial court is requested to decide the suit as expeditiously as possible, preferably within one year.

OCTOBER 12, 2015
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(ARUN PALLI)
JUDGE