

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6981 of 2014 (O&M)
Date of decision: 04.05.2015

Sher Singh and others

... Petitioners

versus

Nagar Council Sunam and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Kamal Goyal, Advocate with
Mr. B.S. Sidhu, Advocate for the petitioners.

Ms. Vandana Malhotra, Addl. Advocate General, Punjab.

K.Kannan, J.

The revision is filed against the order declining the injunction at the time of filing of appeal claimed by the plaintiffs-appellants. The contention was that the property belongs to community of persons belonging to Kamboj Caste in the Village and the property was shown to be in possession of the plaintiffs in the old revenue records. The plaintiffs would aver in the plaint that the Hindu Kamboj cast people had constructed a Gurudwara in the name of Gurudwara Sach Khand Sahib in some portion of the property, primary school was constructed under the management of the 3rd plaintiff and in some portion of the property cremation ground set apart and used as such. There also appear to be some shops constructed by the community in certain other portions. The suit was founded on an apprehension of the plaintiffs that their own possession will be disturbed on the basis of some revenue records which had wrongly entered the Nagar Council as land owner. The defendant had admitted the various acts of possession by construction of shops, management of school and the Gurudwara as contended by the plaintiffs, but wanted to contend that the property was the property of the Nagar Council and it had brought about an

exchange with the Wakf Board for securing some properties for establishing the memorial for Shaheed Udham Singh.

The petitioners had benefit of interim injunction throughout the trial of the suit and when the character of possession of property with several acts of possession having been established, the Court ought to have seen that there was surely a case made for continuance of the relief of injunction at the Appellate Court as well. The respondent was unable to point to any document other than the notification issued treating the property as vested with the Nagar Council. The notification must have some basis for the property as vesting with the Nagar Council. The revenue record of the 19th century records the property as not falling within the character of *sham lat* and therefore the presumption of vesting with the Municipal body under the Punjab Village Common Land Act, 1961 cannot also be invoked; at least prima facie, so.

I do not think the Court below was justified in declining the relief of injunction. He should have allowed the order of injunction which had been subsisting during the trial of suit to continue till the disposal of appeal as well. The order passed by the trial Court is set aside and the revision is allowed, restoring the injunction granted by the trial Court. The Appellate Court will conclude the proceedings as expeditiously as possible.

(K.KANNAN)
JUDGE

04.05.2015

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