

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

C.M. No. 206-CII of 2015 in/and

C.R. No. 8548 of 2014

Date of decision: 08.01.2015

Balvir Singh and another

....Petitioner(s)

Versus

Ranjit Singh and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Ashish Gupta, Advocate,
for the applicant-petitioners.

Mr. Rajesh Bhatehja, Advocate,
for respondent no. 1-caveator.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 206-CII of 2015

Application for placing on record Annexure P-9 and for exemption from filing certified copy of the same is allowed, subject to all just exceptions.

The said Annexure is taken on record.

C.R. No. 8548 of 2014

The present revision petition has been filed under Article 227 of the Constitution of India praying for setting aside the order dated 10.04.2014 (Annexure P-6) passed by Civil Judge (Jr. Divn.), Moga whereby, the application filed by the plaintiffs-respondents for grant of temporary injunction has been allowed. The order dated 04.10.2014 (Annexure P-7) passed by the District Judge, Moga has also been challenged whereby, the appeal filed by the defendant/petitioner was dismissed.

Counsel for the petitioners submits that earlier suit was filed by petitioner no. 1 against Chand Singh and two of his sons in which order of status quo was passed on 08.11.2013 (Annexure P-3) and the said suit is still pending and the injunction application is yet to be finally decided. The present suit in which injunction has been granted to Ranjit Singh and Chand Singh, respondents no. 1 and 2, was filed on 30.01.2014. It is, thus, submitted that though this fact was brought to the notice of the Appellate Court but the same has not been taken into consideration. He refers to para no. 10 of the order dated 04.10.2014 to submit accordingly.

Counsel for the respondents, on the other hand, has argued that the land is different.

However, since a specific argument was raised and not considered by the Lower Appellate Court, this Court is of the opinion that it would be appropriate if the matter is remanded to the Lower Appellate Court to decide afresh keeping in view this factum of earlier litigation having been initiated by the petitioners-defendants against the family of Chand Singh. It is also argued that the alleged writing (Annexure P-9) on which reliance has been placed by the Lower Appellate Court was only executed on 10.02.2014 after the filing of the suit on 30.01.2014. It is further pointed out that the petitioners-defendants are not signatory to the said writing/affidavit and, therefore, the said affidavit has been wrongly taken into consideration by the Lower Appellate Court.

Accordingly, this Court is of the opinion that the matter requires a fresh look by the Lower Appellate Court. Accordingly, the order dated 04.10.2014 (Annexure P-7) is set aside and the matter is remanded to

the Lower Appellate Court to decide the appeal afresh. Parties are directed to appear before the Lower Appellate Court on 27.01.2015.

With the above said observations, the present revision petition stands allowed.

08.01.2015
shivani

(G.S. SANDHAWALIA)
JUDGE