

CR No.8776 of 2014 (O&M)

[1]

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

**CR No.8776 of 2014 (O&M)
Date of decision:12.01.2015**

Vinod Kumar and another

...Petitioners

Versus

Suresh Kumar Bansal

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sanjiv Bansal, Advocate,
for the petitioners.

Rakesh Kumar Jain, J.

This petition is filed by the defendants against the orders passed by both the Courts below restraining the defendants from interfering in possession of the plaintiff of the suit property.

The case set up by the plaintiff in his suit for permanent injunction is that he had purchased the suit land from Harminder Singh S/o Harnek Singh on 03.06.1997 and has entered into possession of the area shown in the site plan as "ABCD". He has allegedly constructed a tin shed, closed by a door and boundary wall, on the suit land which is numbered as 1615-F. According to the plaintiff, on the northern side of the said plot, there is a passage, whereas on its eastern, western and southern sides, there are plots no.1614-F, 1616-F and 1567-F respectively. He has also alleged that he has raised a wall on the one side which is joint and has paid money

CR No.8776 of 2014 (O&M)

[2]

to the other party. Earlier, one Rinku Sharma had tried to interfere in his peaceful possession who was restrained in a Civil Suit as parties were directed to maintain *status quo* but Rinku Sharma along with some criminal elements demolished part of the boundary wall and trespassed into the land, as a result thereof a criminal case was registered against them. It is also alleged by the plaintiff that on 21.09.2012, some person demolished the wall and the matter was reported to the police but the police let off those persons who were caught at the spot. The matter was reported to the DGP, Punjab through complaints dated 30.09.2012 and 01.10.2012.

The application of the plaintiff for temporary injunction was supported by the sale deed dated 03.06.1997, copy of the FIR no.54 dated 14.02.2010, copy of the jamabandi for the year 2006-07, copy of the application dated 30.09.2012, copy of the water payment books, receipt of Welfare Association dated 26.06.1999, copy of the application dated 01.10.2012 to SSP Mohali and copy of the application to the SDM, Kharar dated 11.07.2012. The trial Court allowed the application of the plaintiff on 20.05.2013 with the following observations:-

“It has come out that sale deed in favour of the plaintiff is of share by giving him specific boundaries; it means that sale is of specific property to the plaintiff. Fard jamabandi also show the name of the plaintiff as owner in the Khasra numbers. Receipts produced on record is further supporting the contention of the plaintiff that he is in possession. On the other hand,

defendants produced the sale deed prior to the plaintiff in their favour by the original owners by specific boundaries. As defendants are alleging that this land is sold by the property dealer after making the plots, then it clear the land of the defendants will not be covered under it as they had not sold their land to them, hence the plot given to the plaintiff will be from the land which is not of the defendants. It means the plot is in land, which was purchased by the dealers, not in the land of the defendants. It is matter of evidence whether the registered sale deed is false or fabricated. Keeping in view of the revenue entries and other documents in favour of the plaintiff, a prima facie case come in his favour. Balance of convenience is also in his favour. Accordingly, application of the plaintiffs under Order 39 Rule 1 & 2 read with Section 151 of CPC is allowed by directing the defendants not to interfere in the possession of the plaintiff over the suit property, as detailed in the head note of the plaint, during the pendency of the present suit.”

Aggrieved against the order of the trial Court, the defendants had filed the appeal which has also been dismissed in the following manner:-

“8. On perusal of record, this fact emerges that

plaintiff claims himself to be owner in possession on the basis of a registered sale deed dated 03.06.1997 and the defendants also claim being owners in possession on the basis of registered sale deed dated 17.11.1980. The boundaries mentioned in the sale deeds are not identical rather are at variance. Moreover the plaintiff's alleged plot is comprised of land in khasra no.171//18/2, 19/2, 22/1, 23/2, 24 measuring 15M. Whereas the alleged plot of the defendants is comprised only in khasra no.171//24 measuring 17M. Defendants aver that there is no vacant plot of 15M in the above mentioned khasra nos., but has not been able to satisfy the court on his assertion. On the other hand, sale deed in favour of plaintiff specifically mentions that out of 18/497 share of the vendor, he sold 15/497 share i.e. 15M was to plaintiff out of 18M belonging to the vendor in the above mentioned khasra nos.

9. Moreover a copy of complaint lodged by defendant no.2 to S.D.M. Kharar dated 11.07.2012 is placed on record. It is alleged that 17M plot belonging to defendant no.1 in village Karora purchased by him vide sale deed dated 17.11.1980, has been illegally occupied by some one. The instant suit was filed by the plaintiff on 09.10.2012. Thereby meaning, that the

defendant was not in possession of the suit property at the time of filing of the suit.

10. Relief of temporary injunction can be granted to a person who makes out prima facie case in his favour and satisfies the court that balance of convenience tilts towards him and he would suffer irreparable loss, if injunction is not granted. In view of afore made discussion, the plaintiff has succeeded in showing that he is in possession of the suit property and the same requires to be protected by law. Therefore, this court finds no infirmity or perversity in the order passed by the Ld. Lower Court vide which interim injunction had been granted in the favour of the plaintiff.

11. In the light of discussion made in the preceding paras, the instant appeal is hereby dismissed. Lower court record be sent back forthwith along with the copy of this judgment. Nothing said herein will have any bearing on the merits of the case. Appeal file be consigned to the record room.”

Counsel for the petitioners has argued that petitioner no.1 had purchased the plot in question on 17.11.1980, whereas the respondent had purchased the plot on 03.06.1997 and though the respondent-plaintiff has claimed share in various khasra numbers, as mentioned in the plaint, yet the Courts below have passed the impugned orders qua the land of the

CR No.8776 of 2014 (O&M)

[6]

petitioners which is khasra no.171//24. It is submitted that the plaintiff has only purchased 3 Marlas of land as against the 17 Marlas of land of the defendants/petitioners.

After hearing learned counsel for the petitioners in detail and examining the available record, I am of the considered opinion that there is no merit in his argument as the plaintiff has categorically averred and *prima facie* proved that he is in possession of land falling in plot no.1615-F and has tried to restrain the defendants from interfering therein, which is a part of the various khasra numbers and is shown with letters “ABCD” in the site plan attached with the plaint.

Thus, there is hardly any reason for this Court to interfere in the well considered orders passed by the Courts below, finding *prima facie* case, balance of convenience, irreparable loss in favour of the plaintiff and against the defendants.

Accordingly, the present revision petition is hereby dismissed being denuded of any merit.

January 12, 2015
vinod*

(Rakesh Kumar Jain)
Judge