

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.963 of 2014

Date of Decision.29.04.2015

Harwinder Singh and another

.....Petitioners

Versus

Rasvir Singh

.....Respondent

Present: Mr. Gurinder Pal Singh, Advocate
for the petitioner.

Mr. RVS Chugh, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. In a suit for injunction filed by the plaintiff, he was relying on the partition proceedings in respect of which the property was shown to have been allowed to the plaintiff. The plaintiff was relying on the fact that the respondent had himself earlier filed a suit and sought for injunction in respect of the same property referring to the pendency of the proceedings before the Revenue Authority at higher forum. The Court had found that there were crops at the property and it had observed that the property will be delivered to the plaintiff after the crops were harvested. Crops had been harvested and the plaintiff contended that when he was in possession, he was again being threatened by the defendant who was alleged to take advantage of the alleged fact that the proceedings were still pending before the Revenue

Authorities.

2. The partition proceedings have resulted in an order that allowed for the plaintiff the allotment of the property but the issue is said to be still open in higher forum, I have considered the nature of orders passed by the Revenue Authorities at the higher forum. It merely recorded the fact of pendency of civil suit and has directed that the proceedings before the Revenue Authority will stand adjourned sine die till the conclusion of the civil proceedings. As far as the Civil Court is concerned while considering the action for injunction, it would require to consider the prima facie case of the plaintiff. In an earlier order passed already by the Court allowing for the defendant to harvest the crops, the Court has observed that the plaintiff should be put in possession immediately after harvest. Admittedly, the crops have been harvested but the respondent was trying to contend that notwithstanding the harvest he continues to be still in possession and the proceedings are still pending before the Appellate Authority. I had directed the respondent to file the details of proceedings before the Revenue Authorities and the respondent has filed the document. There is nothing brought out in the record of the trial Court to suggest that the defendant is still in possession. The plaintiff's own prima facie case must be tested on the orders already passed by the Civil Court allowing for possession immediately after the harvest to be done by the defendant. That must, for the sake of interim order, be taken as basis for granting injunction. The trial Court granted that relief and the Appellate Court vacated the same. The order of the Appellate Court is erroneous and it is set aside.

3. The civil revision is allowed. The petitioner will have the benefit of injunction against the respondent from in any manner interfering with the petitioner's possession.

(K. KANNAN)
JUDGE

April 29, 2015
Pankaj*