

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

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Civil Revision No. 1429 of 2014

Date of Decision: August 22, 2016

VINOD KUMAR

-PETITIONER

VS

SATISH KUMAR AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.S.S.Dinarpur, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

In this revision petition, the petitioner seeks issuance of direction to the Civil Judge (Sr. Divn.), Ambala to dismiss the civil suit titled as Satish Kumar vs Vinod Kumar and others filed by respondent No.1 against the petitioner and proforma respondents with exemplary costs being abuse of process of the Court.

Learned counsel for the petitioner contended that the same issue has already been adjudicated by the competent Courts on number of occasions in the past and that has amounted to resjudicata between the parties. He further contended that the family

members of the plaintiff-respondent No.1 has also unsuccessfully contested number of litigations with the petitioner including civil, criminal and revenue litigations.

In the present suit also, following prayer has been made:-

“Suit for Declaration and Possession to the effect that the judgment & decree dated 10.01.1995 in Civil Suit no.727/A of 1982 in suit title as “Ram Kishan Vs. Bhim Sain etc.” passed by Hon'ble Court of Sh. Sant Parkash on 10.01.1995, the then S.J.I.C. Ambala being based upon the writing dated 03.11.1980 obtained by Defendant No.1 by playing fraud, concealment and misrepresentation upon Bhim Sain and fabricating document dated 04.11.1980 in favour of father of defendant no.4, in view of affidavit of Ram Kishan dated 05.07.1994 & 29.12.2001 is wrong, illegal, null and void and all subsequent judgments and decrees of various Courts/appellate courts are also null and void,

unlawful, and inoperative and not binding upon the rights of the plaintiff who has become owner of the land measuring 50 kanal 4 marlas bearing Khewat/Khatoni 1/1 Khasra 9//7(8-0), 8/1(2-4), 10//15(8-0), 16(8-0), 25(8-0), 11//20(8-0), 21(8-) kitte 7, 50 Kanal 4 marla situated at village Laharsa, Hadbast No.54, Tehsil and District Ambala being in continuous and peaceful possession of Bhim Sain whose possession has matured into adverse possession during his life time and being succeeded to him with further relief of Mandatory Injunction directing the defendant No.2&3 to restore the possession of the plaintiff of the suit land with consequential relief of Permanent Injunction restraining the defendant No.2&3 from further alienating or transferring the same on the basis of documentary and oral evidence.”

At the time of notice of motion, this Court passed the following order on 03.03.2014:-

“Contends that the suit is an abuse of the process of the court. The matter is res judicata between the parties which has been litigated many times over, firstly by Ram Lubhaya, his father Bhim Sen, then his wife and his son, Satish Kumar who were parties to the previous suit. Through the impugned proceedings, another round of litigation has been started on the ground of adverse possession which issue is also final between the parties being raised in the earlier suit filed by Bhim Sen father of Satish Kumar. The respondents are said to have been harassing the petitioner from 1967.

Notice of motion only to respondent no.1 at this stage. Process dasti as well.

List on 7.4.2014.”

Keeping in view the facts and circumstances of the case, the present case may not be covered under the provisions of Order 7 Rule 11 CPC, however, liberty can be granted to the petitioner to move an appropriate application before the trial Court for treating particular issue to be a preliminary issue and lead evidence therein. If such an application is moved before the trial Court, the trial Court shall be obligated to decide the same in accordance with law within reasonable time.

Nothing expressed hereinabove would be construed to be an observation on merits of the case.

With the aforesaid liberty, this revision petition is disposed of.

22.08.2016

jyoti Y.

(RAJ MOHAN SINGH)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No